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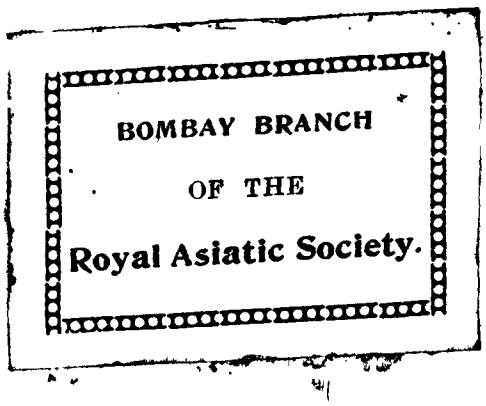

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EAST INDIA (JAILS COMMITTEE).

REPORT

OF THE

INDIAN JAILS COMMITTEE,

1919–20.

108737

Presented to Parliament by Command of His Majesty.

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INDIAN JAILS COMMITTEE, 1919-20

The Resolution appointing the Committee [*Government of India : Home Department* (*Jails*) *Resolution, No. 63, dated Simla, the 28th April 1919*] *is printed as Appendix I.*

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CHAPTER I.

INTRODUCTORY.

Subjects for inquiry.

1. The Resolution of the Government of India constituting this Committee and laying down the terms of reference to it will be found in Appendix I. The concluding words of this Resolution indicate the nature of the inquiries which it was intended that the Committee should pursue. To these a further subject was added in Home Department letter No. 93 (Jails), dated Simla, the 17th May 1919, namely, the subject of jail manufactures, the competition of jail products with similar articles produced by free labour, and the use of power-driven machinery in Indian jails, as touched upon in paragraphs 215-216 of the Report of the Indian Industrial Commission, 1916-18.

Inspections in Great Britain.

2. The Committee assembled in London for their first meeting on the 3rd of June 1919 and with the help of Mr. Mitchell-Innes drew up a programme of visits to penal institutions in England and Scotland. It was hoped that it might be possible to inspect some of the prisons in France and Belgium, but serious railway strikes on the Continent finally decided us to abandon this portion of the tour. Our activities, therefore, were confined to inspections of prisons, Borstal institutions, industrial and reformatory schools and to attendance at children's courts in Great Britain. In Appendix II to this Report we have given a complete list of the institutions which we visited in the United Kingdom. The system of prison administration in Great Britain is so uniform, even in matters of detail, that we considered it to be better to visit a few typical prisons or other penal institutions, and to examine carefully their working, rather than to inspect a large number cursorily and possibly thereby fail in our endeavour to arrive at a true comprehension of the essential principles governing the English and Scottish systems. Our inspection of the different buildings, workshops and gardens of an institution was invariably followed by a personal interview with its governor or superintendent and sometimes with the chaplain and doctor as well. And here we desire to record our gratitude to the officials and non-officials attached to those institutions for the welcome they gave us and for their readiness to answer our questions and to lay before us any information that we desired. We gladly recognize the generous manner in which they complied with our requests for assistance and the frankness with which they sought not merely to make plain the existing machinery but also to help us to understand what were in their opinion the essential objects aimed at.

Witnesses in Great Britain.

3. Through the courtesy of the Home Office and of Sir Evelyn Ruggles-Brise, Chairman of the English Prison Commission, we were enabled to have

Chapter I.—Introductory.

interviews with the following gentlemen in London :—Mr. Maxwell, in charge of the Reformatories Department of the Home Office ; Dr. Norris, Chief Inspector of Reformatory Schools ; Mr. Bulley, Inspector of Reformatories ; the Reverend S. P. H. Statham, Chaplain Inspector of Convict and Local Prisons ; Mr. Clift, Organising Secretary to the Home Office Juvenile Organisations Committee (a standing Committee of the Home Office) ; Mr. Jemmett, Secretary of the Central Discharged Prisoners' Aid Society ; Colonel Rogers, Surveyor of Prisons to the Prison Commission ; and Mr. Cecil Leeson, Secretary to the Howard Association. We thus had opportunities of acquiring information from, and hearing the opinions of, men who are acknowledged to be experts in their particular branches of penological work. Sir Evelyn also himself met us in his room at the Home Office and discussed with us general questions relating to prison administration. In Scotland, the Master of Polwarth, Chairman of the Scottish Prison Commission, accompanied us during our tour and we are much indebted to him for his guidance and valuable advice. We also had an interesting conversation with Dr. Devon, one of the Prison Commissioners for Scotland. Mr. (now Sir Wemyss) Grant-Wilson, the Honorary Director and Treasurer of the Borstal Association, also kindly gave us the benefit of his long experience in the work of assisting released prisoners and especially the youthful offender. We invited the Penal Reform League to depute a representative to give evidence before us, but the League was not able to take advantage of this invitation. Shortly before leaving England we heard the evidence of Lieutenant-Colonel J. Mulvany, I.M.S., formerly of the Bengal Jail Department, and of Commissioner F. Booth-Tucker, late head of the Salvation Army in India.

Visit to the United States.

4. The way for our visit to the United States of America was rendered easy for us by the kind intervention of Sir Evelyn Ruggles-Brise, who before our departure from England wrote letters of introduction to Dr. John Koren, of the Washington Department of State and the United States representative on the International Prison Commission, to Judge Wadhams of New York, and to Mr. Amos Butler, Secretary to the Board of State Charities, Indiana. We sailed from Southampton on the 6th of September 1919 on board the steamship " Aquitania " and on the 13th of that month landed at New York where we were met by Mr. Joseph P. Byers, General Secretary of the American Prison Association, Dr. Koren himself being unable through ill-health to take any active part in our tour. Mr. Byers had in advance prepared an itinerary for us and had made arrangements for our accommodation at the different points to be visited ; we owe him a large debt of gratitude for the pains which he took to smooth our path. Between New York and Chicago we were accompanied by the Hon'ble Decatur M. Sawyer, (President, New Jersey Reformatory Board and Secretary, Prison Association of New York) and Dr. O. F. Lewis, General Secretary, Prison Association of New York. These two gentlemen were untiring in their efforts to make our tour as instructive as possible and we feel that no words of our can adequately express our appreciation of their friendly co-operation with us in the objects which we had in view. Indeed, throughout the United States we were accorded the kindest and most cordial welcome and the

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most generous hospitality and we desire gratefully to record our thanks to all those who assisted us in our journeys and during our inspections of those institutions which the limited time at our disposal enabled us to visit. The names of the institutions visited in America are shown in Appendix III.

Visits to Japan, the Philippines and Hong Kong.

5. Shipping difficulties on the Pacific Coast delayed by some days our departure from San Francisco, and it was not until the 22nd of October that we sailed on the Pacific Mail steamship "Venezuela," reaching Yokohama on the 12th of November. From Yokohama we proceeded direct to Tokyo and on the same day inspected the Kosuge Prison, on the outskirts of the capital, the following morning being devoted to a visit to the Sugamo Prison, also in the suburbs. To both of these prisons we were accompanied by Mr. Davies of the British Legation, who acted most efficiently and untiringly as our interpreter, and to whom, as well as to Mr. (now Sir Beilby) Alston, the acting British Ambassador, and the Japanese authorities, we are greatly indebted for their kind and ready assistance. On Sunday the 23rd of November we landed at Manila and in the afternoon of that day witnessed the prisoners' parade at the Bilibid Prison. The two following days were spent in a careful inspection of Bilibid, and on the last day of our visit we inspected the reformatory school for boys and a similar institution for girls. It was a matter of sincere regret to us that Dr. Dade, the head of the Prison Administration of the Philippine Islands, in company with Governor Harrison, was compelled to leave Manila the day before we arrived. We received, however, all possible courtesy and aid from Mr. Marciano Almario, the Assistant Director, Major Pick of the United States Army, Medical Officer of the Prison, and from the other officials of the Prison, and much kind assistance from Mr. M. Paske Smith, the British Consul-general in Manila. A visit to the Hong Kong Prison was the last of our inspections of prisons outside India and here too we desire to record our appreciation of the cordial reception accorded us by the authorities of the Colony.

Interrogatories and procedure in India.

6. During our stay in England we prepared a paper of Interrogatories, a copy of which appears at the beginning of each Volume of the Minutes of Evidence. These Interrogatories were, by force of circumstances, drawn up before we were in a position to foresee the various paths to which our enquiries were likely to lead. But we have found that this questionnaire, though not exhaustive, served a most useful purpose in concentrating attention upon the more important aspects of prison administration and upon those legal points which have a direct bearing on the treatment of criminals. Copies of the Interrogatories were sent to all local Governments and to the Chief Commissioner of the Andamans, and the local Governments were asked to publish a notification in their official Gazettes giving public notice of our approaching visit and inviting any one who wished to give evidence before us to apply to the Secretariat by a fixed date. To all those who did thus apply, as well as to such officials as were selected by the local Government for the purpose, copies of our Interrogatories were supplied. By this method we obtained, before our arrival at the headquarters of a local Government, written statements of the views held by witnesses;

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and from among the witnesses who furnished written replies to our questionnaire a large number was asked to appear before us for oral examination. In the case of non-officials we arranged for an oral examination of almost every one who applied, even when, as sometimes happened, the application was made long after the prescribed date. In this way we heard the evidence of a number of persons who had themselves served a period of imprisonment, especially in Madras, the Central Provinces and the Punjab. Our sittings for the oral examination of witnesses were in all cases open to the public and to the Press. The written statements of all witnesses and the record of their oral examinations appear in Volumes II to V.

Tour in India and Burma.

7. We reached Dhanushkodi (Madras Presidency) on the 3rd January 1920 and our tour through the Indian continent, with visits to the Andamans and Burma, lasted until the 16th of April on which date we arrived in Simla. Our tour programme * shows that we inspected the more important jails, juvenile jails, criminal tribes settlements and reformatory schools in all the Provinces of India, excepting Assam. Besides examining at the headquarters of local Governments the witnesses already referred to, we took the opportunity at most of the out-stations which we visited of having interviews with jail superintendents, officers in charge of criminal tribes settlements, magistrates or others whose experience led us to consider that their views would be of value to us in our inquiries. The record of these interviews is also contained in Volumes II to V.

* Appendix IV.

CHAPTER II.

HISTORICAL RESUMÉ.

Prison reform in England.

8. Just a century has elapsed since the first effective steps were taken in Great Britain to introduce the elements of decency and humane administration into British prisons. As early as 1774, John Howard had first drawn attention to the terrible state of the prisons, but little permanent improvement followed and it was not until well on in the 19th century that prison reform really commenced. Up to then the prisons remained much as Howard described them, dark, unventilated, overcrowded, strongholds of vice and debauchery, frequently swept by epidemics, where those who had money spent it in drink and gambling and those who had none were in risk of starvation. Even the separation of the sexes was not a universal rule, and beyond that, there was no attempt at segregation or at the separation of young from old, tried from untried, old offenders from new recruits. As has been written in a passage which may possibly be from the pen of Macaulay, the English prisons of those days were places "where many prisoners died of disease and where the rest were educated so as to become the future pests of society during the interval between their release and their being hanged." About 1820, however, the task of reform was seriously undertaken. Mrs. Fry had begun her labours among female prisoners in 1817; about the same epoch the Prison Discipline Society in its reports laid bare the horrors of jail life; and in 1824 the first essentials of decent prison administration were laid down by Act of Parliament. Since then the work of improvement has gone steadily forward through stages which it is unnecessary here to trace.

Prison reform in India—Committee of 1836-38.

9. It does not appear that the state of the prisons under British administration in India was ever quite as bad as it had been in England. The history of prison reform in India may be said to date from the appointment on 2nd January 1836 of the famous Committee, of which Macaulay was a member. In their report, a powerfully written document dated just two years later, the Committee said that in the great essentials of cleanliness, provision of food and clothing and attention to the sick, the state of the Indian prisons compared favourably with those of Europe and "was highly honourable to the Government of British India." It criticized severely, however, the corruption of the subordinate establishment, the laxity of discipline and the system of employing the prisoners in extramural labour on the public roads, "without exception the worst method of treatment that has ever been provided under the British Government for this class of persons." Under the influence of a reaction from these abuses, the Committee threw the whole weight of its authority in favour

Chapter II.—Historical Resumé.

of increased rigour of treatment. It deliberately rejected all such reforming influences as moral and religious teaching, education or any system of rewards for good conduct and advocated the building of central prisons where the convicts might be engaged, not in manufactures which it condemned on somewhat theoretical and unsound grounds but "in some dull, monotonous, wearisome and uninteresting task in which there shall be wanting even the enjoyment of knowing that a quicker release can be got by working the harder for a time." In spite of this strange delivery, the report of the Committee of 1836-38 marks a definite advance in the path of Indian prison reform. Its advocacy of proper buildings and intramural employment laid the foundations for further progress, and its vigorous grasp of principle placed the subject of prison reform in India on a higher plane than might otherwise have been at once attained.

Committee of 1864.

10. Twenty six years later, in March 1864, the Government of India, moved partly by the continued high death-rate in Indian prisons and partly by other allied considerations, appointed a second Committee to consider questions of jail management. This Committee included an expert element, the absence of which was the weak point in its predecessor of 1836-38, and it was enabled to deal authoritatively with many points of detail upon which experience had gradually been accumulated. Its report was, however, hardly as forcible a document as that of the Committee of 1836-38 nor was it marked by the same command of general principles.

Conference of 1877.

11. A third inquiry into prison administration was instituted twelve years later when a Conference of experts assembled in Calcutta in January 1877. On this occasion the Conference was almost entirely composed of officials actually engaged in jail work. No interrogatories were issued and no witnesses examined, but the record of the Conference's deliberations shows that almost all questions bearing on prison administration were subjected to full and exhaustive examination. The plan was adopted of embodying in the Conference's Report a long account of the discussions, the arguments *pro* and *con* and the opinion even of individual members, with the result that the actual conclusions arrived at are somewhat buried under the mass of previous deliberation. The Report is, however, a valuable document and a mine of information as to the condition of Indian jails forty-five years ago.

Committee of 1888-89.

12. In 1888-89, the Government of India appointed a further Committee to examine jail administration. On this occasion the purview of the enquiry was expressly directed towards the routine working of the jails. "There is no wish," said the Resolution constituting the Committee, "on the part of the Governor-General in Council to reconsider the principles laid down" by the earlier Committees. The object in view was to examine into the actual carrying out of those principles and to endeavour to produce greater uniformity in practice throughout India. This task was committed to two experienced jail officials, Drs. Walker and Lethbridge, and the result was the production of an admirably

Chapter II.—Historical Resumé.

clear and businesslike report, which covered nearly the whole field of the internal administration of the Jail Department, but for the most part steered clear of wider issues and questions of principles. The work of Drs. Walker and Lethbridge was supplemented by that of a Committee which met in Calcutta in 1892 and which drew up proposals on the subject of prison offences and punishments subsequently incorporated in the Prisons Act of 1894.

Progress since 1889.

13. During the thirty years which have elapsed since the labours of Drs. Walker and Lethbridge, the science of prison administration has made great advances. New views regarding the origin and causes of crime have been propounded, new experiments in prison management have been carried out, and new methods of preventing crime have been invented or developed. It is no reproach to the men of 1888 and earlier days that they did not foresee these developments. It would have been extraordinary had they done so, for the new light has come largely from the very different atmosphere of America. Before passing on, we would here record our deep and genuine appreciation of all that has been accomplished by prison workers in India in the past. Buildings have been gradually provided, dietaries have been laid down, systems of labour have been elaborated, an excellent remission system has been developed, insanitary conditions have been corrected and death rates reduced. In the ten years ending 1864 the average death-rate in all the main Provinces of India was 78.5 per mille while in Bengal it had been as high as 100.5 per mille. During the four years ending 1917 the average death-rate in all the jails of British India was 18.55 and in Bengal 20.10. These are the results of the work of a long series of devoted and capable officers, both medical and non-medical, during the past three-quarters of a century, and whatever changes may now be in store, we feel confident that the work they accomplished will always deserve the gratitude of the Indian people.

Present position of Indian jail administration.

14. It is, of course, not to be expected that methods of jail administration which have not been overhauled for thirty years should now be found quite up-to-date. The system as it now exists ought to be compared not with present-day standards but with those of 1888 or earlier. The Indian prisons have made notable advances, as we have said, in the material aspects of administration, health, food, labour and the like. But they have not made equivalent progress in other directions. Possibly the influence of the Report of 1838 has to this day not been quite exhausted. Whether this be so or not, it is certain that Indian prison administration has somewhat lagged behind on the reformative side of prison work. It has failed so far to regard the prisoner as an individual and has conceived of him rather as a unit in the jail administrative machinery. It has a little lost sight of the effect which humanising and civilising influences might have on the mind of the individual prisoner and has focussed its attention on his material well-being, his diet, health and labour. Little attention has been paid to the possibility of moral or intellectual improvement. In consequence, while the results of the Indian prison treatment are admitted generally to be deterrent, they are not generally regarded as reformatory. Witness after

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witness from almost every Province in India has, with singular unanimity, declared that Indian jails do not exercise a good or healthy influence on their inmates, that they tend to harden if not to degrade, and that most men come out of prison worse than they went in. We do not all endorse this view but in so far as there is truth in it, it is a result, we are convinced, not of the men but of the system. The whole point of view needs to be altered, not merely isolated details; and we would add that the primary duty of keeping people out of prison, if it can possibly be done, needs to be more clearly recognized by all authorities and, not least, by the courts. We would also add that during the last five years prison administration in India has been severely handicapped by the war, which resulted in the withdrawal of a large number of the most experienced jail officers and that therefore in our inspection of Indian prisons we have seen them under rather less favourable conditions than might have appeared had the inspection been made in 1913.

CHAPTER III.

GENERAL PROPOSITIONS AND SCHEME OF REPORT.

Aim of prison administration.

15. Penology is quite a modern science. The first recorded use of the word dates only from 1838 and it was some considerable time later before the subject attracted much attention. During the last half century, however, the subject of crime and punishment has been discussed by many able writers and a large literature has grown up around it. With the more speculative aspects of these discussions we do not propose to concern ourselves. They involve incursions into the domain of psychology on the one hand and of sociology on the other and we feel that an examination of the theories of crime which have been advanced, attacked, or refuted would carry us beyond the proper bounds of our inquiry. For our purposes it will be sufficient to adopt those principles which are more or less generally admitted. There is very general agreement that crime is an anti-social act and that it is the task of the prison administrator so to deal with the offender that he and others may be deterred from the commission of such acts in future. It is also generally admitted by modern authorities that the aim of the prison administration should further be to effect such a reformation in the character of the criminal as will fit him again to take his place in society and to become a useful citizen. Whatever differences exist as to the methods to be employed, we take it that most penologists agree as to the objects in view, namely, the prevention of further crime and the restoration of the criminal to society as a reformed character.

Essentials of prison administration—

(i) expert superintendence.

16. In order that these objects may be achieved it is, in the first place, essential that the care of criminals should be entrusted to men who have received an adequate training in penological methods. The day is past when it can be supposed that any one is fit to manage a prison, just as it is no longer imagined that any one can teach in a school. In both cases the need for training is generally recognised and the first conclusion at which we have arrived is that as far as possible (and in India there must necessarily be considerable exceptions) every prison should be under the superintendence of a trained expert, who should devote his whole time and attention to the subject. For similar reasons the number of prisoners who can properly be entrusted to the care of a single superintendent must not exceed a certain maximum, as, if that is exceeded, the task of wise and careful management becomes increasingly difficult, if not impossible.

(ii) A properly selected and paid staff.

17. But it is not merely necessary that prisons should be under expert and trained superintendents: it is highly desirable that the whole prison staff

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should be so selected and remunerated that they may exercise a salutary influence on the prisoners under their control. The importance of securing a high average of intelligence and honesty in the higher subordinate officers of prisons can hardly be exaggerated. The jail rules confer very large powers and impose very important responsibilities on the jailor and his assistant and it is in our opinion essential that all possible steps shall be taken to ensure that these officials are men of good education and character. Hardly less important is the position of the lower officers of the prison,—warders and head warders. These officers also possess great opportunities for good or evil in dealing with prisoners and the important rôle played by this staff in the work of prison administration has not been as clearly recognised as it should be by the Financial Departments of all Governments. We would therefore lay down as the second general conclusion at which we have arrived that the prison staff, from the jailor down to the warder, should be recruited with care, properly trained and paid a salary sufficient to secure and retain faithful service.

(iii) Classification.

18. It is further essential to provide that prisoners in jail shall be so classified and separated that the younger or less experienced shall not be contaminated and rendered worse by communication and association with the older or more hardened offender. We are satisfied as to the evil influence which can be exercised in a prison by the habitual or professional criminal, and we regard the adoption of proper methods of classification and the provision of adequate means of separation as the third essential factor in sound prison administration.

(iv) Reformatory influences.

19. That prisoners, while in prison, should be brought under such influences as will not only deter them from committing further crimes but will also have a reforming influence on their character is the next principle which should, we conceive, be accepted. This proposition, though it was rejected by our distinguished predecessors, the Committee of 1836-38, has now been established by the general consent of penologists throughout the world and is to-day questioned by hardly anyone. The general tendency of modern ideas is towards the view that severity alone has little effect in reclaiming the criminal, and that what is required is rather humanising and improving influences which will lead to the prisoner's realising the essentially evil results of crime on himself and others, and will result in a real reformation of character and purpose. The place which the various reforming agencies, religion, education, rewards for good conduct, the hope of release, the encouragement of industry and the like should occupy in any scheme of reformation is a matter of detail which will be discussed in due course.

(v) Aid to prisoners on release.

20. It is also generally agreed that it is desirable, as far as practicable, to help such prisoners as may need help on their release from prison, so that they may be given a reasonable chance of securing an honest living. The idea that the Indian criminal easily regains his place in society and that he needs no

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assistance is refuted by the fact that about twenty per cent of prisoners admitted to jail actually commit fresh crime after release and some eventually become recidivists. The methods to be employed in giving such assistance will vary with place and circumstances, and the need may be greater or less with different classes of offenders, but that some provision for this purpose should be made, either by private benevolence or by the State or by a combination of the two, is not now likely to be seriously disputed.

(vi) Measures to prevent imprisonment.

21. Whatever improvement may be effected in prison administration, it must, we fear, still remain true that imprisonment is generally an evil and that all possible measures should be taken to avoid commitment to prison when any other course can be followed without prejudice to the public interest. As a very experienced prison official of this country has written: "There can be no justification for exposing any member of the community to the depraving influence of prison life, if an adequate alternative can be found." An examination of the measures that can be taken to keep offenders out of prison must form an important part of the inquiry which has been committed to us. This subject assumes special prominence in the case of the child-criminal and the youthful offender. It is universally agreed that by the adoption of wise and sympathetic treatment for these classes an attempt should be made to cut off the supply of fresh recruits to the army of habitual criminals. In England and the United States the law now entirely prohibits the committal of children to prison, while the provision of special institutions for the segregation of juvenile offenders who have passed the age of childhood has been widely adopted. The importance of this subject has indeed been recognised in all the leading civilized countries of the world and, as was indicated in the Government of India's Resolution appointing this Committee, it is one of the matters demanding early attention in India.

(vii) Measures to shorten imprisonment.

22. Not unconnected with the matters just noticed is the question whether it is not possible to promote the prospect of the reformation of criminals and also to reduce the economic waste which is involved in imprisonment, by providing for the revision of sentences in suitable cases after a certain minimum period has been undergone. Attempts have been made to devise a system under which persons, whose release is not fraught with danger to the community, may be liberated in accordance with carefully drawn up conditions and safeguards. This subject has received special attention in the United States of America and a steadily increasing number of States has adopted legislation to give effect to the idea. A movement in this direction has begun to make itself felt in certain quarters in Great Britain and the principle, generally known as that of the "indeterminate sentence", was unanimously accepted at the last International Congress in 1910. No such system has yet been attempted to any appreciable extent in India, but it is an idea which is approved by many leading penologists and it seems to us to be worthy of close consideration with a view to its application to Indian conditions.

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Scheme of Report.

23. We propose in the following Chapters to deal seriatim with the subjects mentioned in the seven preceding paragraphs and then to touch on a few special subjects such as civil, under-trial, female and other special classes of prisoners, prison visitors and prison construction in the order named. We propose lastly to deal with the question of transportation to the Andamans and of the settlements of criminal tribes as established under the Criminal Tribes Act, 1911. We realise that it may not be possible, in view of practical difficulties, to carry out in full every measure which is found to be theoretically desirable, but we desire in this brief outline of the scheme of our Report to make it clear that we have endeavoured throughout to regard the subjects discussed from the point of view of the general principles which we have endeavoured briefly to indicate in this Chapter. Unless these principles are kept carefully in view the bearing of individual questions is apt to become obscured.

Outlay on reform, a true economy.

24. It is, we think, evident that some of our proposals will involve increased expenditure. The higher salaries recommended for jail officials are largely due to the great rise in the cost of living, and are therefore unavoidable, but the provision of a deputy jailor in every central and district jail, the increase in warder staff, the addition of compounders in all larger jails, the additional technical staff and the proposed probation and parole officers are additional items, while the provision of juvenile jails and Special Institutions for adolescents, of additional central jails, and of institutions for mental defectives must involve considerable expenditure. We should like, however, to point out that other of our recommendations, if carried out, should furnish a substantial set-off to some of this increase in outlay. The extension of the probation system should result in keeping large numbers of persons out of prison; the work of the Revising Board ought to have a material effect in shortening sentences and so reducing jail population; the grant of increased remission will tend in the same direction; and the prohibition of petty sentences of imprisonment and the proposals regarding payment of fine should result in greatly reducing the number of prisoners committed to jail. Moreover, the increased and improved staff recommended, the more systematic supervision and employment of convicts, and the introduction of up-to-date machinery for that purpose will, we hope, contribute materially to reduce the burden falling on the tax-payer. Even if, however, our recommendations involve a net increase in expenditure, we would urge that increased outlay is here a necessary condition of reform and progress and that it is essential that there should be reform and progress, if India is to keep up to the standard of a civilised country in the matter of prison administration. Nor is such increased outlay likely to be wholly a burden to the State. In England and Wales the daily average number of criminals confined in local and convict prisons has been reduced from 30,134 in 1880, when the population was 25½ millions, to 17,056 in 1913-14, when the population was well over 35½ millions. The saving to the community thus effected cannot be exactly calculated but must be very large. If this has been accomplished by wise

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legislation and skilled administration in England and Wales, it may reasonably be hoped that something of the same nature is possible in India. We do not suppose that anyone believes the criminal population of this country to be more difficult to reform than that of Great Britain ; possibly the contrary proposition would be nearer the truth. The daily average population of convicted prisoners in this country may be taken at about 100,000. If it is assumed that the net value of the labour of these prisoners, when at liberty, is Rs. 100 per annum, the loss to the country through their detention in prison amounts to ten crores a year. To this must be added the net cost of guarding, feeding and clothing them in jail, which cannot be placed at a lower figure than another ten crores per annum. The total loss to the community is thus twenty crores a year. If the daily average number of criminals could be reduced, even by twenty per cent., it would represent a saving of nearly four crores a year. We are not, therefore, without hope that the increased expenditure which may be involved in the adoption of the recommendations may in the long run prove to be an economy.

CHAPTER IV.

INSPECTION AND SUPERINTENDENCE OF PRISONS.

Growth of movement for concentration of prisoners in central jails.

25. The great area of British India and the defective means of communication at first available, rendered necessary the provision of a large number of places for the confinement of prisoners. In the early days of British rule there was generally a jail in each *zilla* or district, the charge of it being entrusted to some local functionary, usually the district magistrate or sessions judge. As communication by road, railway and other means has improved, there has been a growing tendency to reduce the number of prisons and to concentrate prisoners at central points, chosen on account of their accessibility, salubrity, or other considerations. This tendency towards the creation of central jails has exercised an important influence on prison work in India. By collecting prisoners together in larger numbers, it has become possible, not only to provide better means of employment and to effect greater economy and uniformity in administration, but also to secure more expert management of prisons. It is to a further extension of this centralising tendency that we must look for future progress, if undue outlay on prisons is to be avoided.

Maximum number of prisoners in a single jail.

26. It is not, however, in our opinion desirable that the system of concentrating prisoners at central points should be carried too far. In order that due attention may be given to the individual prisoner, it is evidently necessary that the number of persons collected in one prison and entrusted to the care of a single superintendent should not be excessive. Accordingly we do not approve of the scheme which was put before us by the acting Inspector-general of Civil Hospitals, Burma, under which prisoners would be concentrated in a few large well-equipped central jails with accommodation sufficient for, say, five thousand prisoners, completely equipped as up-to-date factories and with a semi-military organisation for the management of the prisoners. Such a system would, in our opinion, necessitate, as the witness admitted, the provision of at least half a dozen deputy superintendents, thus reducing the superintendent's personal influence in the jail. We would impose a strict limit on the maximum number of prisoners to be collected in one prison. In principle we should prefer to see this maximum fixed at 1,000, on the ground that one superintendent cannot have much individual knowledge of, or influence over, a larger number, but as a practical issue we are agreed that, for the present, the maximum accommodation to be provided in any jail should not exceed 1,500.

Concentration of prisoners in central jails recommended.

27. Subject to this maximum, we think that the policy of concentrating prisoners in central jails has much to recommend it. It has long been recognised that

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it is desirable to collect long-term prisoners in the better equipped institutions, where their labour can be more usefully employed in organised industries and where the chances of reformative influence are larger. Although these reasons do not apply so strongly in the case of the shorter term prisoners, other reasons in favour of concentration in their case also are not absent. Thus it is decidedly more economical to employ a single establishment to guard a strength of, say, 1,000 prisoners in one jail, than it is to employ four separate establishments to guard each 250 prisoners in four jails. The task of providing rations, clothing, medical attendance and all other necessaries can be managed better and more cheaply for a large body of prisoners than for a small one. So considerable are the economies thus effected that they usually much outweigh the extra expense in transferring prisoners under escort to the central jail. There exists no objection in principle to confining short-term prisoners in a central jail. The central jail has never been merely a jail for long-term prisoners but has always also received the short-term prisoners of the district in which it is situated. Indeed, the presence of short-term prisoners in a central jail is useful. It furnishes a supply of men to work in the garden or farm and do other extra-mural work for which long-term prisoners are not well suited. It also enables provision to be made for jail services, such as cooking, scavenging, etc., without drawing away long-term men from the factory. We therefore recommend that in all Provinces the possibility of closing as many district jails as possible and of concentrating prisoners at central jails should be carefully considered.

Present position in regard to concentration.

28. As we have already stated, there was originally a district jail in each district, just as there was a district magistrate, a district judge, and a district surgeon. With improved communications, it has no longer been necessary to keep up the district system in its entirety. A single superior court or a single jail has been found to suffice in suitable circumstances for two districts. But in many Provinces the system of district jails to a great extent continues. Thus there are 44 district jails in the United Provinces, 25 in Bengal, 25 in Burma, 18 in Bihar and Orissa and 18 in the Punjab. With this state of affairs may be contrasted Bombay where there are 15 district jails, the Central Provinces where there are 11, and Madras where there are only 5.* The policy of concentration in central jails has been carried furthest in Madras, where there are 9 central jails, as compared with 3 in Bombay, 4 in the Punjab, 4 in Bihar and Orissa, 5 in Bengal, 6 in the United Provinces and 8 in Burma. In most Provinces a larger number of central jails seems to be urgently necessary.

Whole-time superintendent for every central jail recommended.

29. One of the great advantages of the policy of concentration is that it enables each jail to be placed in charge of a whole-time trained expert. That this is an essential of sound jail administration few qualified authorities would deny.

*These figures are derived from the Summary attached to Home Department Proceedings Nos. 45-46, dated September 1919, but the correct figures are in some cases even less, *e.g.*, in Bombay, there are really only eight district jails.

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In every British prison and in every American prison other than the county jails there is invariably a governor, warden, or superintendent with no other duty than prison administration. The same arrangement should, as far as possible, be made in India and every central jail should be in charge of a whole-time superintendent. This is already the case in many Provinces but not in all. In Burma we found the Mandalay Central Jail without a superintendent and other central jails were in the same position. This was mainly due to the shortage of officers caused by the War, but in some Provinces it has not been yet fully recognised that there ought to be a full-time superintendent for second class central jails. We see no advantage in retaining the distinction hitherto made between first and second class central jails, and we recommend that in future there should be but one class of central jail and that for every central jail a whole-time superintendent should be provided.

Present position of district jails.

30. Under the existing system the charge of district jails is, in every Province in India except Madras, entrusted to the civil surgeon, the term "district jail" ordinarily denoting a jail which serves a single district. This officer is not only in charge of the jail; he has many other duties. In the first place he is in direct control of all the head-quarter medical institutions, which always include the chief general hospital of the district, and sometimes a maternity or women and children's hospital and a police hospital, with occasionally a lunatic asylum or a military police hospital. In addition he is responsible for medical attendance on the superior officials of the station, and cannot usually refuse to attend their families. He has general supervision over all the outlying dispensaries or hospitals of the district and is generally expected to inspect a certain number once a quarter. He is also responsible in some Provinces for the general supervision of the vaccination and sanitation work of the district and he is supposed in addition to have time for general private practice. It is certainly no reflection on the officers who hold or have held the position of civil surgeon to say that it is quite beyond the powers of one man to do justice to all these duties and to the charge of the district jail as well. Many of the civil surgeons who gave evidence before us agreed in this conclusion.

Increasing burden of work on civil surgeons.

31. Nor does it seem likely that the amount of work falling on the civil surgeon will decrease in future. On the contrary, the growing population, the increasing wealth and intelligence of the people and the progressive appreciation of medical science may reasonably be expected to add to the civil surgeon's labours. In almost all Provinces the provision for medical relief is insufficient and must be increased, as funds allow, by the opening of more dispensaries and more hospitals, both general and special. The institutions at head-quarters are similarly bound to expand in size, with the growth of population. The demand for medical education has already forced some local Governments to attach medical classes to mufassal hospitals, where clinical material is plentiful, and so to impose a new burden, that of teaching students, on the already over-taxed civil surgeon. Some measure of relief will sooner or later have to be provided, and one of the readiest means of

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affording such relief is by concentrating prisoners in central jails and by providing special superintendents for the remaining district jails.

Civil surgeon unable to devote sufficient time to jail work.

32. From the point of view of jail administration this arrangement would have many advantages. At present, in too many instances, the civil surgeon is unable to do more than pay a hasty visit of an hour or an hour and a half daily to the jail. During the rest of the day, the administration is left entirely to the jailor and it is a natural and unavoidable result that too much of the practical working of the jail is in the hands of that subordinate. Not even the most devoted and hard-working civil surgeon can prevent this result in view of the many other calls upon his time, and this was admitted by many witnesses. Nor is the charge of the jail by any means a welcome task with all civil surgeons; men whose main interest is in their profession do not care to have to spend a part of the day they can ill spare in superintending jail manufactures or warders' drill. From many points of view, therefore, the creation of central jails and the appointment of special officers as superintendents of the larger district jails is desirable.

A whole-time superintendent for larger district jails recommended.

33. Taking all these considerations into account, we recommend that for all district jails with an average population of 300 and upwards there should be a whole-time superintendent. It would, doubtless, be advantageous if it were possible to go further and to provide a whole-time superintendent even for the smaller district jails, but we recognise that this is impossible for financial reasons. The third and fourth class district jails, that is, those with an average population below 300, must therefore continue for the present to be in charge of the civil surgeon.

Recruitment of superintendents of district jails from the jailor class.

34. For the reasons which we have noticed above it is very necessary that the whole-time superintendents of jails should be trained officers and we think that the jailor service, the whole standard of which we hope will be materially raised in consequence of our proposals, will furnish a suitable field of recruitment for the post of superintendent of district jails. This plan has been followed for many years in Bombay and Madras and many superintendents who have done valuable service to the State have been thus obtained. It is, of course, necessary to recognise that officers thus drawn from the jailor service for appointment as superintendents must be picked men. It would not be in the public interests to let it be supposed that such appointments are in any way a matter of right or routine. They should be made only by selection, and candidates must be qualified not only by length of service and character but also by general education. We think it is particularly desirable that some study of the general principles of penal science should be more widely diffused than it is at present among jail subordinates. It is on this account that, in our Chapter dealing with the jailor service, we have laid stress on the importance of enlisting recruits with good educational qualifications and of recruiting at the stage and rate of pay which will secure candidates of ability and integrity.

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If this is done, we hope that there will in future be in all Provinces a sufficient supply of men fit for promotion to the post of superintendent of a district jail. We saw in our visits to Provinces jailors who impressed us as well fitted for such promotion, and we venture to hope that in those Provinces where promotion to the position of superintendent has not hitherto been made, the experiment will be tried in suitable cases. It should be recognised that some of these jailors have already a great measure of control over the practical administration of the district jails, owing to the many demands on the civil surgeon's time, and to give them full responsibility would not be so great a change as it may sound. There can be no room for doubt as to the beneficial effect which the occurrence of even an occasional promotion to the position of superintendent has on the whole jailor service. It gives something to look forward to and to work for, which in pay and status is altogether beyond anything that can be provided within the jailor grades. It thus supplies somewhat the same stimulus as, in the Revenue and Police Departments, is furnished by the hope of promotion to the position of deputy collector and deputy superintendent.

Promotion of jailors to be deputy superintendents in charge of manufactures not approved.

35. The importance of thus providing an opportunity for advancement to able and deserving officers of the jailor class was very generally recognised, but in some quarters it was suggested that this could best be done by appointing them as deputy superintendents in charge of the manufacturing departments of the larger central jails. For reasons noticed in Chapter IX of this Report (paragraph 80) this proposal does not generally commend itself to us. Jailors have seldom had a thorough and scientific training in any one industry but have picked up a general knowledge of many industries in the course of their service. For the post of deputy superintendent in charge of manufactures what is required is a technical expert.

Recruitment of superintendents of district jails from other sources.

36. When no suitable jailor is available for the post of superintendent of a district jail, recourse must be had to other departments. It is always possible that some officer who has paid special attention to questions of penal treatment, who is otherwise suitable for selection for the post of superintendent and whose training and experience have fitted him for the work, may be found in such Departments as those of Police or Education. But we think that another suitable field of recruitment will be found in the class of assistant surgeons, and particularly among military assistant surgeons. Their medical education is a useful asset in dealing with all matters bearing on the health of the jail, while the fact that they have served under military conditions generally gives them a better knowledge of how to enforce discipline than is possessed by those who have not had this advantage. In the ranks of civil assistant surgeons it will also be possible to find men who, by natural aptitude and force of character, are suited for the post of superintendent of a district jail.

Scale of pay for superintendents of district jails.

37. We do not think that it is possible, in view of the varying conditions of the several Provinces, to lay down any universal standard of pay to be offered to

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whole-time superintendents in charge of district jails. It is evident that the initial rate of pay must be somewhat above the maximum rate of pay allowed to jailors, and if that maximum is placed, as we recommend below, at Rs. 450 per mensem, the initial pay of the whole-time superintendent of a district jail might be Rs. 500 per mensem. No officer will presumably be appointed to the post of whole-time superintendent until he has put in a good many years' service and therefore many may not serve for a very long period in the position of superintendent. We are inclined to think, therefore, that pay of Rs. 500, rising by annual increments of Rs. 25 to Rs. 750, would usually be appropriate, but in all cases free quarters near the jail must be provided for the whole-time superintendent.

Medical charge of district jails and allowances therefor.

38. When the whole-time superintendent of a district jail is not recruited from the Medical Department, the medical charge of the district jail must be separately provided for. In those Provinces where there is more than one assistant surgeon attached to the civil hospital, it may be possible for this official to visit the jail in lieu of the civil surgeon, who might then occupy the position of consulting physician to the jail. In other Provinces the civil surgeon should retain medical charge of the jail. The present allowances granted for charge of district jails range from Rs. 50 for a fourth class district jail to Rs. 150 for a first class district jail. It has long been a cause of complaint that these allowances are inadequate. They do not amount to as much as would suffice at the present day to hire a conveyance for the daily journey to and from the jail. We certainly think that in view of the general rise in the cost of living, including the expense of keeping up or hiring conveyances, they should be raised. We accordingly recommend that the allowance for the medical charge of a district jail, when entrusted to the civil surgeon, should be fixed at Rs. 100 per mensem for jails with an average population of 300 and not more than 500, and at Rs. 200 per mensem for jails with an average population of over 500. When both administrative and medical charge is in the hands of the civil surgeon, the allowance should in all cases be Rs. 200 per mensem.

Charge of district jail during absence of civil surgeon on tour.

39. When the civil surgeon in charge of a district jail proceeds on tour, it is necessary that some other officer should take over charge of the jail during his absence. In some Provinces the practice is for the district magistrate to nominate some magistrate in the station in which the jail is situated to hold charge of it while the civil surgeon is on tour. In other Provinces it is usual for the assistant surgeon to take charge of the jail during such absences. Of these alternative arrangements, the latter seems to us to be preferable. Its advantages are, first, that as the assistant surgeon is the civil surgeon's regular assistant and subordinate in the medical administration, it is generally more satisfactory to the civil surgeon to entrust the charge of the jail to a man whom he knows and who is also carrying on his other duties, than to a magistrate whom he may not know and who is not his subordinate. In the second place, the occasional charge of the jail during the civil surgeon's absence gives the assistant surgeon an insight into jail administration which

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becomes of value to him should he himself rise to be a civil surgeon or should he be selected for service in the Jail Department. On both grounds, therefore, we recommend that when a civil surgeon goes on tour, the charge of the district jail, whether medical or administrative, should, if possible, be entrusted to the assistant surgeon of the station.

Possible effect of the Government of India Act, 1919.

40. In the above remarks we have dealt with the position of the civil surgeon and of the district jail as they are under existing conditions. It is possible that the introduction of the Government of India Act, 1919, and the rules made under it, may alter these conditions materially. If, for instance, the effect of the new constitution should be to remove from the civil surgeon all responsibility for medical institutions belonging to local bodies, that might give him such a large measure of relief that he would be able to retain charge of the district jail. The recommendations above made would then require to be reconsidered. We should then propose that instead of the civil surgeon being relieved of charge of the district jail, he should be placed, as far as possible, in the position of a whole-time superintendent and be provided with quarters at or near the jail, which should constitute his chief charge, other duties, such as medical attendance on gazetted officers, being merely subsidiary. Future arrangements may differ in different Provinces and we cannot forecast them. We would merely emphasise the fact that the main point in our recommendations is to secure a whole-time resident superintendent for district jails, whether such superintendent be the civil surgeon or some one else. It may be added that even if in most places the changes under the Government of India Act do have the effect of relieving the civil surgeon of charge of medical institutions belonging to local bodies, there will probably remain a number of stations where the hospitals belong to Government and where, therefore, the civil surgeon would still remain in charge thereof. In these cases our remarks regarding the necessity of affording him relief and regarding the need for a whole-time superintendent other than the civil surgeon would still hold good. These cases will afford an opportunity for the promotion of deserving jailors to the position of superintendent.

Arguments for and against combination of executive and medical functions in central jails.

41. We received widely divergent opinions as to whether it is desirable that the officer in charge of a central jail should combine in his own person both the administrative and medical charge. On the one hand it was strongly urged that the combination of functions in one man prevents the friction which is liable to occur when the superintendent and medical officer are different persons, that it saves division of responsibility, economises labour and generally promotes the smooth working of the jail. The contrary view, which also was strongly held by other witnesses, was that the presence of two officers, a superintendent and a medical officer, is desirable because each is a check on the other. It was suggested that the separation of executive and medical functions gives the prisoner a better chance of fair treatment, because, when he is classed for labour or awarded punishment, he comes before two authorities instead of only one authority. This point of view was much pressed by several non-official

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witnesses. Considerable difference of opinion also existed as to whether in a central jail with a population of from 750 to 1,500 prisoners it is possible for one man to do justice to both the administrative and the medical work. One view was to the effect that a superintendent who has been properly trained and who knows his work can carry on both the administrative and medical duties even of a large central jail with a high degree of efficiency. Other witnesses took a contrary view, laying stress on the necessity of devoting a larger amount of time than a superintendent with other duties can spare to the medical work of the jail, especially the early diagnosis of disease, the careful examination of prisoners in respect of their fitness for labour, the microscopic examination of blood and so on. The cleavage of opinion naturally proceeded very much on the basis of what each witness was accustomed to.

Committee's conclusions.

42. We suppose that it can hardly be disputed that, granted the possibility of securing the services of two first class men, one for the administrative charge of a jail and the other for the medical charge, it is better to have two men than one. It is undoubtedly difficult to find combined in the same individual the varied gifts generally required of the superintendent of a large jail in India, such as the training, judgment and temper of a firm, yet wise, disciplinarian, the business capacity of an administrator who has to provide rations, clothing, and labour for a large population, and the professional skill, knowledge and sympathy of an expert physician. To the medical man interested in his professional duties, there is sometimes something distasteful in having to spend a large proportion of his time in non-medical work, such as the promotion of manufactures and the financial cares and worries of a large prison. On the other hand, a man whose interests and tastes are mainly in the direction of business is apt to give less time and attention to the diagnosis of disease and the study of medical problems than would be given by a doctor with no other pursuit before him. It seems to be difficult to resist the conclusion that the combination of administrative and medical functions in one man must involve some sacrifice of the interests of one or the other, or of both.

Same subject continued.

43. But though the provision of a separate superintendent and a separate medical officer, both of first class qualifications, thus represents the ideal, we clearly recognise that under Indian conditions it is not practically obtainable, except at an expenditure which must be regarded as prohibitive. Moreover, the results which have been in very many instances achieved under the system of combination of executive and medical duties in one person have been on the whole so good as not to warrant the incurring of greatly increased outlay in order to make a change. We recognise the valuable field of recruitment which is offered by the Indian Medical Service, and if a medical officer is chosen for the executive charge of a jail, it would be a loss of power to suggest that his medical knowledge should not be availed of. We do not attach very great weight to the argument that a prisoner has a better chance of fair play when his case comes before two men than when it comes before one. On the whole we consider that, as a practical issue, the present system of recruiting superintendents of central jails

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from the Indian Medical Service and of giving them combined executive and medical charge has proved a success and should be continued. But we are not in favour of entirely excluding from all prospect of promotion to the post of superintendent of a central jail those officers, whether medical or non-medical, who have done good service as whole-time superintendents of district jails. We think that a fair proportion of vacancies in the posts of superintendent of central jails should be reserved for these officers, if they have done well, but it should be distinctly understood that such promotion entirely depends on selection and cannot in any degree be claimed as a matter of right.

The Inspector-general of Prisons.

44. The post of Inspector-general of Prisons should be filled by selection from the ranks of superintendents of central jails. We are not in favour of restricting the selection to any one service or class, but would advocate the choice of the best man, whether medical or non-medical, Indian Medical Service or non-Indian Medical Service. The pay and allowances attached to the post of superintendent of a jail should be sufficient to attract a sufficient supply of suitable candidates independently of the possibilities of selection for the post of Inspector-general.

Periodical conferences of Inspectors-general recommended.

45. We have considered the question whether it is desirable that there should be under the Government of India, a Director-general of Prisons, who would visit all Provinces and advise all local Governments. Although the creation of such an appointment would be useful in securing uniformity between the different Provinces, we feel unable, in the present uncertain position of the future relations of the provincial and Imperial authorities, to recommend it. We are, however, very decidedly of opinion that, as far as possible, uniformity should be preserved in all important matters of jail administration, and to this end we are in favour of frequent conferences between the provincial heads of Prison Departments. Many of the provincial peculiarities and divergencies from the general practice, which we have occasion to draw attention to in this Report, would probably have been avoided if such conferences had been regularly held in the past. We accordingly recommend that in future a conference should be held at least every other year. If possible, it should take place in each Province in turn, so that officers of all Provinces may have the advantage of studying the conditions of administration and the degree of progress achieved in other parts of India. Selected superintendents of jails should be invited to attend these congresses in addition to the Inspector-general, and it will often be desirable, as public interest in prison matters extends, to invite also any non-officials who have given attention to, and shown a genuine interest in, prison administration.

Training of superintendents.

46. It is, we think, very desirable that before any person, who has not had previous service in the Jail Department, is appointed as whole-time superintendent of a district or central jail, he should undergo a period of training in jail management and of study of the principles of penal science. We accordingly

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recommend that every such officer should be placed for six months under a selected superintendent of a central jail and should there receive a thorough training in all branches of jail work, including a careful study of the various Acts and Codes which bear on jail administration and of such standard works on penology as may be prescribed. The Inspector-general of Prisons should, if possible, satisfy himself by personal examination that the candidate has acquired a good practical knowledge of the duties of the superintendent of a jail before he is placed in independent charge of a jail.

Study leave for study of jail administration.

47. It is also of much importance that superintendents of jails in India should take every available opportunity of studying the jail systems of other countries. The cost of such concessions is amply repaid by the wider field of information which the officer acquires. We accordingly recommend that the rules relating to study leave should be so extended as to enable any superintendent of a district or central jail, whether in the Indian Medical Service or otherwise, to devote some period of any leave he may take out of India to the study of jails and connected questions in Europe or the United States of America. It should be a condition of such study leave that the officer should produce at its conclusion a note or monograph on the results of his studies and that the local Government should be satisfied that he has utilised his time to the best advantage.

Views of D. M. Dorai Rajah of Pudukottah and Mr. Mitchell-Innes.

48. Two Members* of the Committee desire to record their dissent from some of the recommendations adopted in this Chapter, because they are in favour of the appointment in all large jails of separate superintendents and medical officers. They consider that if the medical charge of a large prison is added to the ordinary duties of a superintendent, both are apt to suffer ; that the evidence received shows that the time which a medical superintendent is able to devote to hospital work is inadequate and in the interests of the sick should be increased ; but that this cannot be done without subtraction from the time available for his other important duties and functions as superintendent, especially those bearing on the reformation of the prisoner. Already the combination of functions has in some instances led to too much control being entrusted to the jailor and the recommendations of this Committee will tend to throw additional work on both the superintendent and the medical officer. They point out that in the larger prisons in England and America a separate superintendent and separate doctor (both full-time officers) are always provided, although in those countries the staff often includes additional officers, such as a chaplain and deputy-governor (independently of any manufacturing staff), who are absent in India. They cannot attach importance to the argument that the presence of two separate officers, superintendent and medical officer, in a jail will lead to friction, because the system works well in other countries and has worked well in many instances in India. On the other hand if there are two officers, each supplies a check on the other. They urge that

*D. M. Dorai Rajah of Pudukottah and Mr. Mitchell-Innes.

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jail superintendentships ought not to be the monopoly of any one profession or service; that experience has proved non-medical superintendence to be as efficient as medical superintendence; and that there would be no difficulty in recruiting suitable candidates for the post of superintendent from the Bar, the Education or Police Departments or the Provincial Civil Service, on salaries of about Rs. 800 to Rs. 1,200 per mensem. (On this last point one Member,* being unacquainted with India, offers no opinion). They attach greater importance to knowledge of the people of the country and of the language, than to medical training or military experience, which may yet leave a superintendent so ignorant of the practical conditions of jails in India that he is liable to be too much under the influence of the jailor. They claim that several witnesses, both official and non-official, support them in this view. Such military training as is requisite can be acquired during the probationary period, nor is this considered an essential qualification in Great Britain or the United States of America. If such superintendents were given a medical officer of the standing of assistant surgeon on about Rs. 500 to Rs. 800 per mensem, the cost would not practically exceed that of a medical superintendent from the Indian Medical Service. The civil surgeon could be called in as a consultant, when necessary, and paid a fee. Finally they consider that if a single officer is appointed as medical superintendent, he should have the assistance of a medical officer of not lower rank than assistant surgeon, so that the ordinary medical work of the prison should be carried on without requiring the constant attention of the superintendent, whose medical duties should be confined to those of a supervising officer. They attribute many of the defects in jail administration which are noticed in other parts of this Report to the failure to provide these essentials. They also wish to point out that there is only one Inspector-general of Prisons in each Province in India, whereas in Great Britain there is a Board of Prison Commissioners and a Comptroller, as well as Inspectors of Prisons.

Views of Colonel Jackson and Sir Walter Buchanan.

49. Two other Members† of the Committee are also not in agreement with all the remarks made in this Chapter, but on different grounds. They are convinced that in all cases it is desirable that the offices of superintendent and medical officer should be combined in one person. They object to separation, because it means the presence in jail of two practically co-ordinate authorities, either of whom can hamper and impede the work of the other. Hence if disagreement occurs, as has not infrequently happened in the past, the administration of the jail suffers. They point out that the separation of functions means duplication of work, for two men have to go over the same ground where one would suffice. This applies to inspection of prisoners, buildings, yards, food, etc. They also urge that so large and vital a part of the work of jail administration, *e.g.*, food, clothing, sanitation, involve medical questions on which only a medical man is competent to give an authoritative opinion, that it is very desirable, if not actually essential, that the superintendent should be a medical man. Admitting the principle of individual treatment of prisoners, the doctor is *prima facie* the most suitable superintendent. The ground work, details and whole nature

* Mr. Mitchell-Innes.

† Colonel Jackson and Sir Walter Buchanan.

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of his training teach him to look on each man as a separate entity ; no two patients are alike in mind, constitution or physical strength ; there is no greater probability that any two prisoners will be alike. If there is truth in the modern theory as to the great part mental defect and abnormality play in the production of crime, there is a strong additional argument in favour of a medical superintendent. They consider that the experience of many years in most Provinces has proved that a whole-time medical superintendent has ample time to enable him efficiently to carry on both the executive and medical work of a jail. If skilled technical managers and trade instructors are supplied, and if an honest and capable staff is brought into being, the former duties of the superintendent of an Indian jail will be considerably reduced. The medical faults in the past have not been on the part of the medical officer : they are attributable to antiquated buildings, lack of nursing and deficient equipment—matters of money, not personnel. Many laymen have a curious conception of a medical officer's duties and appear to regard the main duty to be the constant presence of the doctor in the ward and the frequent prescription of drugs. Diagnosis is the most important duty of a doctor towards a patient, but a far more important function is the prevention of disease and the resultant empty hospital. A civil surgeon does not spend four or five hours a day in his *wards*, which is apparently the root idea of many witnesses. Furthermore, much of the evidence given related to the last four or five years during which the Indian Medical Service superintendent was conspicuous by his absence. The special advantages of recruitment from the Indian Medical Service are that the officers secured from that service possess higher qualifications than any obtainable in India, and that they have had several years' military service, thus giving them a training in the maintenance of discipline. The appointment of an assistant surgeon as medical officer in place of a member of the Indian Medical Service would be the substitution of a subordinate and presumably inferior agency in place of a superior. They draw attention to the immense improvement in health and vital statistics, which has been achieved in Indian prisons during the last fifty years, which is, they suggest, largely the result of the work of members of the Indian Medical Service. Finally they point out that the method of selection recommended provides at least the guarantee that the superintendent is a man of scientific training, selected from the fellows of his profession by a competitive examination, and they consider it to be a better method of selection than that existing either in England or America. Multiplication of offices by the provision of a separate governor and doctor has no great merit beyond giving each officer an easier time, and leads logically to the provision, as in England, of five Commissioners of Prisons, a Comptroller and several Inspectors. That individual treatment of prisoners may gain nothing under a separate governor and medical officer is clear from the statement made to us by the governor of an important English prison, that a governor of a prison did not need to have personal knowledge of his prisoners.

CHAPTER V.

PRISON ESTABLISHMENT.

Section I.—Executive and Clerical Staff.

Staff to be divided into two branches, executive and clerical.

50. In Chapter III above we have dwelt on the importance of securing in the higher subordinate officers of the prisons a high standard of intelligence and honesty so that they may exercise a wholesome influence on the prisoners in their charge. The qualities required in those who are employed in the executive functions of the establishment must differ considerably from the qualities required in the clerical staff. We think, therefore, that the two classes should be separately recruited and that it is undesirable to combine to a larger extent than is unavoidable the executive and clerical functions in the same person or class. We would accordingly lay down as our first recommendation on this subject that the prison establishment should be divided into two branches, one executive and the other clerical, and that they should, to a great extent, be separate and independent, although in the smaller jails complete differentiation may not always be possible, and that they should be separately recruited.

Recruitment of executive branch.

51. The executive branch in jails should be divided into two classes, namely, jailors and deputy jailors. Recruitment for these classes should not be made, as is at present the case in some Provinces, at the lowest point, that is, at the bottom of the clerical establishment, but should commence ordinarily at the grade of deputy jailor, though direct appointment to the grade of jailor should not be prohibited. In such recruitment the desirability of securing persons of superior education should be kept constantly in view, but we do not advocate the laying down of any fixed standard of academical attainment, such as the Intermediate examination or the B.A. degree, because that course would involve the danger of excluding many of the classes of the population who are best suited for executive work. We think that, while every endeavour should be made to secure candidates with the highest available equipment in general education, the Inspector-general of Prisons should have full discretion to enlist persons otherwise suitable for jail employ, such as soldiers of the British or Indian Army who possess good educational qualifications. Nor would we debar him from promoting to the executive grade specially deserving and suitable members of the clerical staff, although such promotion would be an exceptional course. We consider it essential that jailors should be acquainted with one of the chief vernaculars of the Province, but on this point, as well as on the question of recruitment generally full discretion must necessarily be left in the hands of the local Government.

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Pay and duties of jailors.

52. It is difficult to exaggerate the responsibilities which necessarily attach to the post of jailor. As the chief executive officer under the superintendent, it lies with him to supervise the working of all branches of the jail. The safe-keeping, comfort, health and reformation of the prisoners in the jail largely depend upon the character and influence of the jailor. No superintendent, however constant his attention and vigilance, can be in quite such close touch with the jail administration as is the jailor. Even though he may not have immediate control over the spending of money, there can be no reasonable doubt that the jailor of any jail, and especially of a large central jail, where the annual expenditure amounts to several lakhs of rupees and where well-to-do prisoners are often received, is subject to manifold temptations, and it is, in our opinion, greatly to be wondered at that, with such poor pay as is at present too often given, the jailors in Indian jails are as upright as they are. But it would be misleading to suggest that corruption is unknown, and we consider that it is in the interests of economy and of the good administration of the Department that more liberal terms should in future be granted to the jailor staff. So long ago as 1889 Drs. Walker and Lethbridge recommended a scale of salary rising to Rs. 350 per mensem. We now recommend that the pay of a jailor should in no case be less than Rs. 200 per mensem, and that it should rise at least to Rs. 450 per mensem. Even then the pay will not compare favourably with that which can be attained to by corresponding officers in the Revenue, Police and other Departments, while the monotonous character of a jailor's duties, the fact that he has to spend most of his life within prison walls, and the long hours of duty, render the Jail Department very much less attractive than most other branches of government service. We should feel it necessary to recommend even higher pay for jailors, if we had not proposed in the foregoing Chapter to reserve a certain number of posts of superintendent of district jails for deserving members of the jailor grades. We also recommend that in future all jailors should be gazetted officers. This is important as giving them official and social status, entitling them to a seat in the collector's durbar on official occasions, and generally placing them in the position which their undoubted responsibilities demand.

Practice of making excessive recoveries from jailor's pay.

53. In this connection we wish to draw attention to a matter which came under our notice in one Province (the Punjab) namely, the practice of making excessive recoveries from the pay of jailors. Our attention was drawn to one case in which recoveries amounting to Rs. 378 had been ordered by the Inspector-general of the Province to be made from a jailor, whose sanctioned rate of pay was Rs. 110 per mensem. These recoveries had been made on the audit of two months' accounts of the jail in question, and it was said to be the regular practice in this Province to make such recoveries, if any objectionable item was detected at audit in the jail accounts. This practice is a bad one for many reasons. In the first place it is obvious that a jailor on a pay of Rs. 110 per mensem cannot make good such large amounts out of his pay and that, if they are enforced, he must resort to dishonesty to meet these claims. It is said that the recoveries are not always in fact enforced and are largely a *brutum fulmen*. If this is so, we fail

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to see any advantage in the system, which has the result of keeping the jailor in a perpetual state of uncertainty and anxiety. Moreover, the system is undoubtedly unjust, for the recoveries are ordered to be made from the jailor on account of matters for which the superintendent, and not the jailor, is responsible. Thus, in the case which drew our attention to the system, a sum of Rs. 196-12-0 had been disallowed by the Inspector-general on the ground that the price at which certain purchases of hemp had been made was higher than the market rate quoted by the local tahsildar in his periodical price list or *nirkh-nama*. It seems to us that to disallow the price at which purchases had actually been made merely on the ground of the tahsildar's periodical price list, the accuracy of which is seldom above criticism, would be in itself an unwise step; but even if it were decided to do so, the proper person from whom such recovery should be made is not the jailor but the superintendent, who is the responsible officer in charge of the jail. Under Rule 89 of the Punjab Jail Manual the superintendent's responsibility is expressly recognised, and apart from this rule, it is clearly the superintendent's duty to control and approve the rates at which all large purchases are made. The superintendent is in a much better position to defend himself against unjust recoveries than a subordinate officer such as the jailor. This vicious system of ordering recoveries from the pay of the jailor without adequate inquiry and proof that it is upon him that the responsibility lies, cannot in our opinion fail to result in producing in the minds of the jailors an impression of injustice, which is highly detrimental to the interests of Government, even if the recovery is afterwards re-considered and waived, and we strongly recommend that it should be prohibited.

Jailor to be relieved as far as possible of clerical work.

54. In pursuance of the principle which we have laid down above, jailors should, as far as possible, be relieved of clerical work. The jailor is, or should be, essentially an executive officer, constantly on the move about the jail, seeing that the prisoners are at work, mixing with them and studying their character, preventing irregularities and favouritism and supervising the running of the whole machinery of prison administration. It is a great mistake to tie him down to the desk by imposing on him a mass of clerical duties. Under the existing Jail Manuals in force in most Provinces far too great an amount of clerical work devolves upon the jailor; indeed it may be said without fear of contradiction that in many Provinces the tale of duties and responsibilities which the Jail Manual places upon the jailor's shoulders is such as to render it quite impossible for any man fully to perform them. Thus every jailor is liable to be confronted with instances of neglected duties on his part which can neither be denied, nor, in view of the provisions of the Jail Manual, justified, and yet which were really unavoidable. We think that in all Provinces the rules relating to the jailor's duties should be carefully revised so as to restrict them within such limits as are possible of performance. In particular the jailors should be relieved of responsibility for the maintenance of accounts and registers. Such work belongs properly to the clerical staff, and to insist upon the jailor's being responsible for it is to make it impossible for him to devote as much time as he should to the general outdoor supervision and executive administration of the jail. Thus it is quite unreasonable to

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expect the jailor to be responsible for the manufacturing accounts of the jail. In the manufacturing department, in jails in which there is no deputy superintendent for manufactures, jailors may fairly be required to accept responsibility for the quality of the raw materials brought into the jail and for that of the manufactured articles turned out of the workshops. It is also his undoubted duty to take an important share in the enforcement of labour and, therefore, in the checking of tasks performed by prisoners. But the accounts of the manufacturing department and the maintenance of the registers of that department are not matters for which the jailor should be held to be in any way directly responsible. Similarly in the matter of rations, while the jailor should be strictly responsible for the quality of the articles of rations brought into the jail and for the correct preparation of the cooked food, together with general supervision over other matters in the ration store-rooms, he should not be required either to keep the books in which details regarding the issue of rations are recorded or to be responsible for the preparation of the ration accounts. These are matters which must be entrusted either to a deputy jailor or to a clerk. Similarly with regard to the control over the cash transactions of the jail, a jailor is usually entrusted with the cash chest and is responsible for the correctness of its contents, including the amount of the permanent advance, but he should not, we think, be required to keep the cash book or to do more than exercise general supervision over the cash account. In many Provinces the jailor is also required to initial too many registers and books. Every endeavour should be made to reduce the amount of clerical work which is imposed upon the jailor, so that he may spend a larger portion of his time outside his office and in the direct administrative control of the jail.

Pay and duties of the deputy jailor.

55. The deputy jailor is the officer whose duty it will be to take the place of the jailor when the latter is absent on leave or through sickness, and at all times to supplement and assist the jailor in his executive and other functions. The deputy jailor's grade will thus form a training ground where officers can learn the duties of the jailor and be tested in their fitness to take up the jailor's work as vacancies occur. In order that recruits of good education may be obtained and that they may not be exposed to temptation during the earlier years of their service, we think that the pay of deputy jailors should in no case commence at less than Rs. 75 per mensem. There should be two grades of deputy jailor, one on Rs. 75 rising to Rs. 100 and the other on Rs. 100 rising to Rs. 150 per mensem. There should be a deputy jailor in every central and district jail. Some difficulty arises in the case of the smaller district jails. There is not sufficient scope there for the appointment both of a deputy jailor on Rs. 75 a month and a clerk. It is, however, necessary that there should be some officer available to take the place of the jailor when he is absent, and on this account we consider the appointment of a deputy jailor in every district jail to be essential. As, however, there would not be work sufficient for the clerk as well, we recommend that in the smaller district jails the deputy jailor shall be required to perform the

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clerical duties of the jail, in addition to those which devolve upon him as the jailor's executive assistant.

Pay and duties of the clerical branch.

56. The clerical branch of a jail will consist of clerks, accountants and storekeepers. The head clerk must be an officer of sufficient standing and intelligence to be able to take over as much as possible of the jailor's clerical duties. He must accordingly be given pay commensurate with his position, and as, under our proposals, members of the clerical staff will not in future ordinarily be eligible for promotion on the executive side, the scale of pay provided for the clerical branch must be sufficiently liberal to afford them a fair prospect of promotion. With the same object we think that members of the jail clerical staff should be regarded as eligible for transfer into the office of the Inspector-general, and should in fact be considered as freely interchangeable with the Inspector-general's clerical establishment. It is impossible for us to attempt to lay down any scale of pay which would be universally suitable for the clerical staff in district and central jails. The initial pay of the clerks in a jail would doubtless be fixed with reference to the initial pay in force in the Revenue and other Departments of the Province. Owing to the great rise in prices this initial pay must be considerably higher than would have been considered necessary a few years ago, and our general idea of what would in many Provinces be a suitable rate is that the clerical branch would commence on Rs. 50 per mensem and would rise by grades on incremental pay or otherwise to about Rs. 150 per mensem, with perhaps a few prize appointments on a higher pay. The standard of education to be required for admission to the clerical branch should be the same as that in force in other clerical departments in the Province. We consider it of considerable importance that in every large manufacturing jail there should be an officer definitely entrusted with the charge of manufacturing stores and with the duty of maintaining the registers relating to the manufacturing department. We understand that this is not at present always the case. The value of the stocks of raw materials and manufactured articles in the larger central jails is very considerable and it is, we think, poor economy not to place them under the control of a properly chosen and adequately remunerated officer, who should be required to give substantial security for the due performance of his duties.

Effect of higher pay on clerical staff.

53. The proposal to add in every district jail a new executive officer or deputy jailor on a salary of Rs. 75 a month; and at the same time to raise the pay of the clerical staff, may be criticised on the score of expense. We doubt whether the rates of pay proposed for the clerks are much more than it has been found generally necessary to give in other departments in consequence of the great increase in prices and cost of living which has occurred in India, as in other countries, since the commencement of the War. But we would particularly draw attention to the fact that the salaries hitherto granted to the clerical staff in jails have been inadequate to secure anything but a very indifferent class of recruit. If, as we propose, higher pay and improved prospects are now given, a superior class of candidate will be obtained, the

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work will be better and more quickly done, and a reduction will be possible in the number of clerks employed, or what is to the same effect, the additional work, especially in respect of remission, which our recommendations involve, will be able to be dealt with without increase in the personnel.

European warders.

58. In the Presidency jails, and in those other jails where any large number of European prisoners are received, it is necessary that there should be an adequate staff of European warders who should be given reasonable pay, with quarters, and sufficient prospects of promotion to secure trustworthy candidates. It is not necessary for us to go into details on this subject because local conditions vary so greatly, but we presume that in the future, as in the past, European warders will be considered to be eligible for promotion to the position of deputy jailor and jailor if they prove themselves fitted for that post.

Quarters and recreation room.

59. The necessity of providing quarters at the jail for the executive branch is recognised, we believe, in all Provinces. It is also in our opinion very desirable that there should be in each jail a recreation room where the members of the jail staff, both executive and clerical, can meet when off duty and find reasonable opportunities for improvement and recreation. Books, including a small supply of works on prison subjects, and newspapers should be provided as far as funds allow. We think that a small subscription should be levied from each member of the staff towards the maintenance of the recreation room, and that a corresponding grant-in-aid might well be made from public funds for the same purpose.

Probation.

60. It is hardly necessary for us to suggest the expediency of requiring that all officers who are newly employed in the Department should undergo a reasonable period of probation and training before they are finally confirmed in their posts.

Rules 308 of United Provinces Jail Manual.

61. In the United Provinces our attention was drawn to rule 308 in the local Prison Manual which provides that one European officer shall invariably sleep at the main gate and shall visit the barracks and sentries within the jail at least twice in the night. This liability now extends also to the higher Indian officials. While we entirely approve of the practice of requiring jail officers to pay visits at uncertain times at night to the jail, in order to ensure that the sentries and warders on duty are on the alert, we think that the rule in force in the United Provinces imposes an undue strain upon the superior staff, who are required by it not merely to pay a visit in the course of the night occasionally, but to sleep at the main gate throughout the night. This is not found necessary in other Provinces, and seeing that the superior officers have to be on duty throughout the day, it appears to us that the rule requiring them also to be on duty at night, apparently without any restriction as to the number of nights per week for which such obligation devolves upon them, is unreasonable and should be modified.

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Section II.—Warder Establishment.

Insufficiency of present rates of pay of warder establishment.

62. The large increase in recruiting for the Indian Army which has been one of the results of the War, the rapid rise in the demand for labour throughout India, and particularly in the great cities, which is a feature of the advancing industrial development of the country, the general rise in the level of prices and other economic causes have rendered the sanctioned rates of pay of the warder establishment in jails wholly inadequate. In every Province we visited opinion was unanimous in the view that it is impossible under present conditions to secure recruits of suitable quality. In many Provinces much difficulty has been met with in securing recruits of any kind, and there was a general opinion that at present the Jail Department is able to obtain only the leavings of the labour market, the men who have been rejected by other departments, such as the Police, and the Indian Army. The poor character of the men obtained and the small attraction which the Department offers are clearly brought out by the large numbers of dismissals and resignations. This will appear very clearly from the following figures relating to the Bombay Presidency :—

Year.	Sanctioned strength.	Number of resignations.	Number discharged or dismissed.	Vacancies at the end of the year.
1915	859	114	90	10
1916	860	110	54	50
1917	860	116	95	68
1918	860	107	93	42
1919	860	105	104	40
Total	..	552	436	..

These figures show that in the Bombay Presidency about 25 per cent. of the entire warder staff changes every year either through resignations or through dismissal. The consequence is that a large part of the warder establishment is in a continual state of flux, men coming and going from year to year and only a small proportion remaining constantly in service. The bad results of such a system upon the efficiency of the administration need no demonstration. In our opinion it is essential that the terms offered to the warder establishment should be materially improved. We think that it is beyond dispute that the conditions of service in the Jail Department are more rigorous and less attractive than those in most other departments, and in particular than those of the Police. A warder's life is necessarily to a great extent passed within the jail walls. He is but little less of a prisoner than the inmates whom it is his duty to guard. The constable, however hard his work may be, enjoys all the advantages of freedom and does his duty amid the changing scenes of the bazar or the quiet of the country ; but the jail warder, immured for long hours within the jail, has nothing

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to break the monotony except the short period during which he is off duty. Moreover, unlike the police constable, the warder is under constant supervision. Owing to the limited area within which his duties are performed, he is at all times under the eye of some superior, and this brings with it a greater liability to be detected in irregularities and to be punished therefor, and imposes on him a much severer strain. These facts constitute a great handicap on the jail service which is alone sufficient to place the Jail Department at a disadvantage as compared with the Police. Unless, therefore, the terms offered to the jail warder are superior to those given to the constable, men of even equal quality with the recruits secured for the Police will not come forward. As a matter of fact, however, the position of the Police, both in regard to pay and allowances, pension, and working hours has been generally better than that of the warder, and though the disadvantage in respect of pension has lately been removed, this alone will not serve as a sufficient set-off to the many other drawbacks of jail service. It is thus not surprising that the quality of warder at present enlisted is quite unsuitable and unsatisfactory.

Need for improved class of warder.

63. We are strongly of opinion that it is essential, if the standard of jail administration is to be improved, as all authorities agree is necessary, that a better class of warder than has hitherto been employed should be obtained. In every Province which we visited there was a general opinion that corruption is common in the warder staff. The whole level of honesty and efficiency in the subordinates of the Department needs to be raised. As has been pointed out in Chapter III, the subordinate staff in the jail possess great potentialities for good or evil and the warder should be of such a character as to exercise a salutary influence within the prison. We feel, therefore, that, if reforms are to be effective, it is of vital importance that these men should be granted a salary which will secure a proper class of recruit and will place them as far as practicable above temptation. It is also very desirable that the standard of education among warders should be raised and that as far as possible warders who can read and write should be enlisted. When suitable recruits are obtainable, we think that as a matter of principle the intra-mural guards and extra-mural guards should be amalgamated and form a single force, but this is a matter which must be determined by each local Government on the conditions prevailing in the Province, and if amalgamation is carried out, the whole force should receive an adequate training in drill and musketry. In this connection two of our Members* advocate the abolition of clause I of rule 270, Punjab Jail Manual, on the ground that it restricts the recruitment of warders to certain races only, thereby excluding, in their opinion, persons of other castes and races, although they may be otherwise properly qualified for the post of a warder. They consider such a restriction undesirable for obvious reasons. The rest of the Committee would leave this matter to the local Government.

Increased scale of pay and provision of family quarters recommended.

64. We therefore recommend that the scale of pay granted to the warder establishment should be revised, and that in doing so it should be accepted as a principle that the warder's pay should be distinctly better than that given to

*D. M. Dorai Rajah of Pudukottah and Mr. Mitchell-Innes.

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the Police. Where local allowances are granted to the Police and other departments on account either of the unhealthiness of the locality, or on account of the special expensiveness of living, similar allowances should be given to the warder staff. We do not support the idea which was put forward by some witnesses that, in addition to pay, warders should be granted free rations or should be supplied with provisions below market cost. Such a plan, though it is followed in the Indian Army, involves great practical difficulties in the way of the control of issues of foodstuffs and brings the jail subordinates into undue intimacy with the purveyor of jail supplies. On the other hand we consider it to be very necessary that quarters suitable for family life should be provided at the jail, if possible for the whole jail staff. This has already been done in some Provinces, especially in Madras and Bombay, but in other Provinces only a small number of family quarters exist. The consequence is that the warders are forced to live for long periods as bachelors—a state of things which is wholesome neither for them nor for the jail administration. We regard the provision of suitable warders' lines as a matter which will have a very important bearing on the securing of a better class of recruit.

Other recommendations relating to warder establishment.

65. There are two or three other matters which exercise a considerable influence on recruiting for the warder establishment. In those parts of India in which the warder establishment is not recruited locally, as for instance in Burma where at present the whole warder establishment comes from India, or in Bengal where at present the staff is almost entirely drawn from Bihar, it is of considerable importance that the men should be enabled to pay periodical visits to their homes. This is particularly necessary when, as at present, they are unable to bring their families to the place of employment. It is, however, impossible for a warder on a small salary to make the journey to his home at his own expense, and we accordingly recommend that at least once in three years every warder and head-warder should be entitled to be furnished with a return ticket to the railway station nearest his home. The grant of this concession would, of course, be conditional on the man's being given leave and could not be claimed as a matter of right, nor would it entitle a warder to leave if the exigencies of the service rendered it inconvenient to sanction it. Another concession which would add greatly to the comforts of the warder staff would be the establishment, outside each jail, of a small hospital ward, where the warder when sick could be treated by the sub-assistant surgeon attached to the jail. At present it is in many cases difficult to induce a warder, when he is ill, to go into the local hospital. Many jails are situated several miles from the nearest town and, if a man is required to go to the municipal or police hospital, he is cut off from his family. The consequence is that as far as possible, he remains in his house in the lines, if he has one, and the temptation to conceal sickness which is always present is much increased. Another matter which may be noticed here is that connected with the security deposits, which, in many Provinces are taken from warders by means of monthly deduction from their pay. This system is generally approved in those Provinces where it is in force, but considerable complaint is made regarding the difficulty of securing prompt payment of the amount to the legal representatives of the warder after his death. The money is usually deposited in the post office savings bank and, when the widow or other representative in interest applies for

payment, she is told to produce the order of a court or other evidence that she is the next-of-kin entitled to the money. We are aware that this difficulty is not confined to the Jail Department but we should be glad if it were possible to find some means by which speedy payment of security deposits free of cost to deceased warders' legal representatives could be ensured. A further point to which we wish to invite attention is the desirability of crediting any sums which may be recovered as fines from warders and head warders to a special account, which should be held by the superintendent and should be disbursed at his discretion for the benefit of the warder establishment generally, as for instance in contributing towards a general recreation room for warders or otherwise, as local circumstances may suggest. We do not propose that these sums should constitute a fund within the meaning of the Finance Department, because we are aware of the objections which exist to the creation of special funds. All that we would indicate is that fines inflicted on warders and head warders should not be credited to the State, but should be held by the superintendent and employed as above suggested. This system is in force in English prisons, both convict and local.

Appointment of chief warder suggested.

66. In addition to the establishment of warders and head warders there should be in every central jail a post of chief warder which will provide a position to which a head warder of the jail may legitimately look forward. Should no suitable man be available on the jail establishment, the services of a qualified person such as a retired jamadar or subadar of the Indian Army should be obtained and the salary will have to be sufficient to attract men of this class. This appointment, where it does not already exist, is necessary in order to ensure the presence in the jail warder establishment of a trained disciplinarian.

Police to be relieved of any part of the guarding of central and district jails.

67. In most parts of India the principle of a self-contained warder force which shall be independent of the police is now generally accepted and carried out in all district and central jails. Wherever this is not the case we recommend that steps should now be taken to carry it into effect. The system of dividing the responsibility of guarding prisoners between the Police and the Jail Department is unsound and probably involves increased expenditure.

Increase of strength recommended.

68. It is undoubtedly necessary that besides better pay there should be a considerable addition to the strength of the warder staff in almost every Province. In the course of this Report we have made various recommendations which must necessarily throw additional work upon the warder establishment. For instance the recommendation, which is contained in the next Chapter, that no convict should be allowed to be outside his barracks at night and that the entire guarding of the jail after lock-up should be conducted by the paid staff, must alone involve a considerable increase to the warder force. Again, the introduction of any system of recreation such as is suggested in Section IV of Chapter XI will also throw additional work on the warder. There are some other recommendations which will have a similar effect. Apart, however, altogether from these recommendations, the opinion of all jail officers agrees as to the fact that at present the jails in India are seriously under-staffed. The extent to which this under-staffing

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exists no doubt varies in different Provinces. In Chapter VI, paragraph 84, we have given figures regarding the warder staff in the central jails of the United Provinces and we have shown that in those Provinces the number of warders and head warders, exclusive of reserve guard and apprentices, available for the control of a population varying from 1,400 to 2,000 averages only 27. It is quite evident that such a strength of warders as this is entirely insufficient to secure any measure of proper control. In another Province, namely, Bihar and Orissa, we were told by the superintendent of a large central jail that in the factory of that jail, where six hundred prisoners are employed, there is ordinarily only one warder on duty. If our recommendation that convict officers are not to be allowed to be in independent charge of workshops, gangs, or other bodies of prisoners, is accepted, the number of warders on duty in the jail at day-time as well as at night must be considerably increased. The warder strength appears to be particularly weak in the United Provinces, Burma, and Bihar and Orissa. The proportion of warders available varies from one to twelve prisoners in some jails, to one in thirty six in others. All jail superintendents agree that the hours of duty in prison are too long, that there is no adequate leave reserve and that the men are overworked as well as underpaid. The increased and better-paid staff which we recommend will, we trust, have the effect of exacting a full day's task from all able-bodied convicts and of ensuring stricter discipline.

Basis of scale of warder establishment to be adopted.

69. We do not think it necessary to attempt to lay down any rules as to the strength of the warder establishment that should in future be provided. That strength should no doubt generally be based on the average prison population, rather than on the total accommodation of the jail. We think also that it should be adopted as a fixed principle that the warder should not be required to do more than ten hours' work a day and that he should be allowed at least four nights in bed each week, this being the scale adopted in the Indian Army. It is also most desirable that there should be an adequate leave reserve, so that it should be unnecessary, when a man takes leave or is sick, to employ a temporary substitute. The strength of the leave reserve is a matter which can best be determined by local Governments. We would merely lay emphasis on the necessity of providing such a reserve as will prevent the constant employment of temporary men.

Circle reserve system in Bengal.

70. In this connection we desire to draw attention to the "circle reserve" system which has begun to be introduced in Bengal. In that Province the various district jails are attached or affiliated, in convenient groups, to the nearest and most appropriate central jail. At the Presidency Jail a body known as the "circle reserve" is maintained. When a condemned prisoner, or any other prisoner for whom a special guard is required, is admitted into one of the attached district jails, an indent is sent to the Presidency Jail and the necessary guard is supplied from the circle reserve. Unless some such system is resorted to, one of two difficulties has to be encountered. Either there must be a special reserve maintained at each jail to supply guards for condemned prisoners, lunatics, or any other prisoner requiring to be specially guarded, or on the admission of such a prisoner temporary men must be enlisted for the occasion. The latter alterna-

tive is extremely unsatisfactory, because it involves the introduction into the jail of a number of untrained men, who are under none of the restraints imposed by pensionable service and who are mere temporary coolies taken on for a few weeks at a time. On the other hand the alternative of maintaining a special reserve at each jail is liable to be expensive and wasteful, and it appears to us that the better plan is to collect the reserve at a central point whence it can be sent out to any jail where the need for it has arisen. We commend this system to the attention of other local Governments. It is hardly necessary for us to add that we consider that the duty of guarding condemned prisoners should be undertaken by the warder staff and should not, as is still the case in some Provinces, be imposed upon the police. We have referred again to this matter in Chapter XVII, paragraph 488.

Section III.—Medical Staff.

Present method of deputing medical subordinates to Jail Department.

71. The medical subordinates who are employed in jails form part of the general medical establishment of each Province and are selected to undergo a period of jail service by the Surgeon-general or the Inspector-general of Civil Hospitals. We received various complaints regarding this method of supplying medical subordinates for jails. In all Provinces jail service is unpopular with medical subordinates because during that service private practice is prohibited without any adequate compensation for its loss being granted, and because of the confinement and monotony of jail work. We heard it suggested that in consequence of this unpopularity transfer to employment in a jail has sometimes been used as a punishment for refractory and unsatisfactory medical subordinates. Without attaching too much weight to this suggestion, we think there is some ground for complaint as to the manner in which medical subordinates are supplied to jails, transferred and withdrawn. We heard of instances where half a dozen changes in medical subordinates had occurred in one jail within a single year. The Inspector-general of Prisons, moreover, not being consulted either as to their selection or removal, is sometimes inclined to resent changes which may really be due to unavoidable exigencies of the service. It seems to us desirable that some modification of these arrangements should be effected.

Proposed separate jail sub-medical service not recommended.

72. In more than one Province the idea has been suggested of creating for the Jail Department a separate and independent sub-medical service to which the Inspector-general of Prisons would recruit candidates as they leave, or perhaps as they enter, the medical schools. The sub-medical service thus contemplated would be self-contained. The men would pass the whole of their careers in the Jail Department. They would not be liable to be transferred to the general medical service of the Province, and it is claimed that they would thus

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acquire an intimate knowledge of jail administration, which the shifting body of sub-assistant surgeons now obtained from the general provincial medical establishment can never possess. We recognise the attractions from the jail point of view which this scheme presents, but there appear to us to be serious counterbalancing disadvantages. In the first place it seems to us probable that a sub-assistant surgeon would not enlist in the jail service on a scale of pay at all approaching that for which candidates can be obtained for the general subordinate medical service of the Province. That service, including as it does a very large number of appointments of varied attractiveness, presents possibilities of ultimate advancement and reward which enable it to obtain recruits at a moderate average cost. In most stations a sub-assistant surgeon can make Rs. 50 per mensem by private practice, while in some much greater possibilities exist, and it is not too much to say that in quite a large number of wealthy towns a sub-assistant surgeon who is energetic and capable can make an income of Rs. 200 a month or even more, in addition to his salary. In the Jail Department no prize of this nature would exist, and therefore it would be necessary to offer very much higher pay. In one Province, in which the scheme of a separate subordinate medical jail service had been broached, the Inspector-general of Prisons proposed that the initial pay of a sub-assistant surgeon should be Rs. 150 a month, as compared with Rs. 50 which is the ordinary initial pay in the subordinate medical service. We are quite convinced, therefore, that the plan of a separate service would involve heavy additional expenditure. It would also necessitate the maintenance of an independent leave reserve. In the second place, it also seems probable that a sub-assistant surgeon electing for continuous service in jails would, after a certain number of years, become disgusted with the monotony of jail life. The liability to spend the greater part of the day within jail walls is in itself a matter which is likely to become more and more distasteful as time goes on. We think also that there would be a probability of some sub-assistant surgeons employed only in jails falling behind in their general medical knowledge. The rationale of allowing private practice to medical officers is to provide a stimulus which shall encourage them to keep up to date in the ever-changing and advancing science of medicine, and the absence of this stimulus might in the long run have a detrimental effect on the efficiency of a separate sub-medical service within the Jail Department.

Improvement in present system recommended.

73. For these reasons we are unable to recommend the creation of separate jail subordinate medical service, but we think it is very desirable that some improvements should be effected in the conditions under which sub-assistant surgeons are at present deputed from the general Medical Department for service in jails. We understand that in the Madras Presidency a system has been introduced under which, in the first place, the selection of sub-assistant surgeons for jail work is made on the basis of a regular roster, on which every sub-assistant surgeon's name is entered, and according to which every sub-assistant surgeon is liable to take his turn of service in the Jail Department. It seems to us very desirable that such a system should be introduced in all Provinces, in order to remove any misconception that deputation to the Jail Department is used as a method of punishment, and in order to

prevent any unfairness in the selection. We would merely lay down, as a guide to the Surgeon-general or the Inspector-general of Civil Hospitals in the selection of medical subordinates for jail service, that as a rule no sub-assistant surgeon should be posted to jail employ until he has completed at least two years' service. In the second place, according to the Madras system, when a sub-assistant surgeon is chosen to undergo a period of service in the Jail Department, his services are placed unconditionally at the disposal of the Inspector-general of Prisons, and it is left to that officer to post him to whatever jail he sees fit, and to transfer him from jail to jail at his discretion, so long as he remains in the Jail Department. In order that this system of which we approve, may be systematically carried out, the sub-assistant surgeon should be sent to the Jail Department for a definite period, which might be from three to five years as may be best suited to local conditions, and during that period the sub-assistant surgeon would be regarded as wholly at the disposal of the head of the Prison Department and not liable to be withdrawn without his consent. It would be at the discretion of the Inspector-general of Prisons to punish a sub-assistant surgeon placed under his control by way of fine or suspension, but in the latter case an immediate report should be made to the Surgeon-general or the Inspector-general of Civil Hospitals. If the Inspector-general of Prisons considered that a sub-assistant surgeon's work was so indifferent as to require the withholding of any increment or the stoppage of promotion, it would be open to him to bring the matter to the notice of the Surgeon-general or the Inspector-general of Civil Hospitals. No sub-assistant surgeon should ordinarily be liable to be called upon to serve a second term in the Jail Department.

Increase in jail allowances recommended.

74. By the adoption of this procedure the main objections to the existing practice of staffing the jails from the subordinate medical service of the Province would, we think, be satisfactorily met. It is, however, also absolutely necessary that the allowances attached to jail appointments, as compensation both for the loss of private practice and for the other disagreeables and disabilities which appertain to jail work, should be largely increased. These allowances vary in different Provinces but are everywhere quite insufficient in view of the facts noticed in paragraph 72 above. In Madras the jail allowance amounts to a uniform sum of Rs. 10 per mensem which is the same amount as is given for the charge of an ordinary dispensary, thus affording no compensation whatever for loss of private practice. In Bengal the allowance varies from Rs. 10 to Rs. 25 per mensem according to the class of jail in which the sub-assistant surgeon is employed, an arrangement which seems to us to be incorrect, seeing that the loss of private practice has no relation to the jail to which the sub-assistant surgeon is posted. In Bombay there is no allowance strictly intended to meet the loss of private practice, but merely an allowance which can be granted or withheld in accordance with the work of the subordinates in the jails. We recommend that a jail allowance should be introduced which should be uniform in all jails, but should vary with the grade of the sub-assistant surgeon concerned, it being probable that a senior sub-assistant surgeon is ordinarily able to make a larger income from private practice than a junior one. We think that this jail allowance, which is to cover all the disabilities attached to jail service, may be fixed at Rs. 30 rising

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to Rs. 70 per mensem in accordance with the grade of the medical subordinate. In addition to this grade allowance we would place at the disposal of the Inspector-general of Prisons a lump sum of Rs. 6,000 per annum or more, according to the number of jails in the Province. This lump sum should be divided at the end of each year at the discretion of the Inspector-general of Prisons, so as to form a reward-allowance for those sub-assistant surgeons who have shown special diligence or done exceptionally good service. Such a reward-allowance has existed for many years in the Bengal Presidency and has proved very useful in stimulating interest and encouraging good work. It would generally be sufficient to give each medical subordinate a reward at the rate of Rs. 15 to Rs. 30 a month according to his standing and grade. The effect of these recommendations would be that a sub-assistant surgeon employed in jails would, if his work was thoroughly satisfactory and if he showed special diligence in any particular direction, receive total allowances ranging from Rs. 45 to Rs. 100 a month according to his grade. It is further necessary that in every jail quarters, not inferior to those provided in the Medical Department, should be made available for the sub-assistant surgeon attached to the jail. This is a matter which greatly affects the comfort of the sub-assistant surgeon, and though in some Provinces it has already been attended to, there are other Provinces where the quarters available are neither sufficient nor satisfactory. These improvements should, we think, be sufficient to remove the discontent, which undoubtedly prevails at present amongst sub-assistant surgeons employed in jails and which received strong expression in the evidence of some of our witnesses.

Whole-time sub-assistant surgeon generally necessary.

75. In view of the important duties both inside and outside the hospital which are entrusted to the sub-assistant surgeon in jails, we think that there should be at least one whole-time medical subordinate in each central and district jail. There may be a few very small district jails where the combination of charge of a jail with that of charge of some other institutions in the station may be unobjectionable. In such cases it is usual to allow the sub-assistant surgeon to hold combined charge of the jail and the outside hospital or dispensary and to take private practice, and we would not interfere with this arrangement. Generally, however, we are not in favour of medical subordinates employed in jails being allowed to take private practice. If there is any such case as above referred to in which private practice is permitted, there would be no need to give the special jail allowance which is intended as compensation for the disallowance of this privilege.

Strength of subordinate medical staff.

76. The number of sub-assistant surgeons employed in a jail should, we think, vary with the population of the jail. In district jails with an average population of not more than 800 prisoners, we think that one sub assistant surgeon and a compounder will suffice, but in all central jails, and in district jails with a population exceeding 800 there should be two sub-assistant surgeons and a compounder, while in any jail in which the population exceeds 1,500 three sub-assistant surgeons and a compounder are, in our opinion, necessary. We would point out that, in addition to the duties laid on the sub-assistant surgeon by the Jail Code, blood

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examination and other microscopic work form an important part of a sub-assistant surgeon's duties, and these necessarily increase with the size of the jail population. As regards the pay of the compounders we think that a reasonable rule would be to allow a salary of Rs. 5 in excess of the rate paid in the local hospital, the extra amount being a set-off against the disagreeables of jail service. No compounder need be provided in a jail with an average population below 300.

Relations between sub assistant surgeons and jailor.

77. Some stress was laid by some of our witnesses on the relations which exist between the sub-assistant surgeon and the jailor, and claims, which we cannot but regard as extravagant, were made on behalf of the sub-assistant surgeons. Some of the representatives of the sub-assistant surgeon class who gave evidence before us wished the sub-assistant surgeon employed in a jail to be altogether independent of the jailor, and even suggested that the appointment of jailor might be abolished, and that the sub-assistant surgeon might be entrusted with the duties of jailor. We are unable to give any support or countenance to these proposals. We consider that it is essential that the sub-assistant surgeon, like all other subordinates in the jail, should (except in strictly professional matters) be subject to the authority of the jailor. The rules on this subject are not quite satisfactory in all Provinces, and we suggest that the terms used in rule 119 of the Punjab Jail Manual would generally be suitable. This runs as follows:—

"119 (1). In all matters relating to, or connected with, the feeding, clothing and medical treatment of hospital patients and other professional duties, the medical subordinate shall obey the orders of, and discharge such duties as may, from time to time, be lawfully assigned to him by the medical officer. In matters relating to, or connected with, the maintenance or order and discipline in, and the general management of, the jail, he shall obey the orders of the superintendent and the jailor respectively. (2) In every jail the medical subordinate shall record in his report book, and report to the medical officer, all orders given to him by the superintendent or jailor."

It should also be clearly understood that, as laid down in rule 125 of the Punjab Jail Manual, it is part of the duty of the sub-assistant surgeon to inspect the food godowns and the kitchens daily, and to see that the cooking vessels are clean and that the food is of proper quality and quantity, and properly cooked. This duty appears to be recognised in the Jail Manuals of all Provinces except the United Provinces where, we suggest, similar directions may now be issued.

Changes in nomenclature not recommended.

78. We are unable to recommend a proposal which was put before us by some of the representatives of the Sub-assistant Surgeons' Association, that the medical subordinate employed in the jail should be given the title of "assistant medical officer." The titles "sub-assistant surgeon" and "subordinate medical service" are well understood by the public, and we think it is undesirable to make any change in nomenclature so long as they are in use in the Medical Department.

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Assistant surgeons employed in jails.

79. The medical staff of jails does not usually include an assistant surgeon as such, but there is at least one case in which an officer of this grade is employed in a jail, and other cases may in future arise. We accordingly recommend that in the event of its being found desirable to post an assistant surgeon to jail duty other than that of medical charge of a jail, he should receive allowances of corresponding amount, in proportion to his pay, to those which we have recommended for the sub-assistant surgeon.

Section IV.—Technical Staff.

Trained experts for charge of large industries.

80. The manufacturing department of the jail is that in which the need for trained technical staff is chiefly felt. At present the task of carrying on manufactures is, except in a few large jails, left entirely in the hands of the superintendent, medical or otherwise, and of the jailor. Neither of these officials has usually had any regular training or instruction in any branch of industry, still less in modern methods of manufacture, and they have merely picked up such knowledge as they possess in the course of their service in the Jail Department. Such a method of conducting a manufacturing undertaking cannot be regarded as calculated to advance the interests of the tax-payer. If, as we have recommended in Chapter IX of this Report, prison industries are to be developed on up-to-date lines so as to give the prisoner a really useful training, and if the consuming departments of the State are to be required to obtain their supplies from the jails, then it is, we think, essential that an expert, who has received a thorough training in the special industry of the jail, shall be placed in charge of the manufacturing department of each jail in which any large organised industry is proposed to be developed. Such an expert would ordinarily be a man from outside the Department, who has learnt the latest methods under practical trade conditions in England, India or elsewhere. This would not entirely debar a jailor from appointment to such a position, if he had had such an outside training as is above contemplated, but the ordinary jailor is much more of an all-round handy man than an expert in any one subject and would therefore not be fit for the post. We recommend that the expert should be termed "deputy superintendent for manufactures" and should be paid a salary sufficient to attract a thoroughly competent professional man. He would naturally be assisted by such trade instructors as may be necessary.

Trade instructors for smaller jails.

81. In those jails where either the smallness of the available convict labour force or other local conditions render it impossible to develop a single large organised industry, the appointment of an expert on a large salary as above

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suggested would be unnecessary. In these circumstances where expert assistance is required, reliance for the proper conduct of manufactures must be placed on properly qualified foremen—master carpenters, master tailors, and the like—who will perform the functions of trade instructors, and will also take their share in the duty of checking tasks and of seeing that the individual convict does a fair day's work. The salaries to be paid to such men will depend on the local labour market but should be sufficient to secure really competent and qualified trade instructors. In special cases, as for example that of a head gardener, a suitable man may sometimes be secured by enlisting him on the warder establishment and giving him a small monthly trade allowance, but it is unlikely that this will generally be found possible, as there is too large a gap between the scale provided for warders and head warders and the rate of remuneration which a capable trade foreman can command.

Technical assistant for the Inspector-general.

82. In addition to the above professional staff, we think it is desirable that the Inspector-general of Prisons, in the larger provinces at least, should be given a qualified technically-trained assistant who will travel with him and assist him in the task of supervising the manufacturing departments of jails. Such assistance will not perhaps be much required in the case of those jails in which a large organised industry, under the direction of a technical expert, has been developed; but these jails will be in the minority. In other jails the progress of manufactures will depend very much on the aid and advice which the Inspector-general can give. He, like the superintendent and jailor, has not ordinarily had any industrial training. He cannot be expected to possess sufficient technical knowledge to advise untrained superintendents and jailors on the improvement of their manufacturing departments or to be in a position to judge of their efforts. It is in these cases that the need of a technical assistant is most felt, and we certainly think that the entertainment of such an assistant is an essential step, if the manufacturing side of jails is to be efficiently carried on. In addition to the above function, the proposed technical assistant will be of material assistance to the Inspector-general in procuring orders and distributing them to the several jails, in purchasing supplies of raw materials, in superintending the central depôt for sale of jail products and in similar duties.

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CHAPTER VI.

CONVICT OFFICERS.

Arguments for and against convict officer system.

83. The system of utilising convicts as prison officers and of employing these "convict officers" to supplement the paid officials of the Department has long been a special feature of Indian jail administration. The system originated in the prisons of the Malay Peninsula early in the 19th century, owing to the difficulties there experienced in obtaining a sufficient supply of paid warders. It was subsequently introduced into Bengal, whence it spread to the rest of India. Opinion is sharply divided as to the intrinsic merits of this system. One school of thought contends that the convict officer system is the only really powerful reformative influence which has hitherto existed in Indian prisons. It is said by those who hold this view that the system of gradual promotion by which long-term non-habitual prisoners, many of whom are not of a criminal type, may hope to rise by their own exertions and good conduct from one grade to another until they reach the highest, is a valuable incentive to improvement and an unequalled training of character. They contend that in many cases convict officers are mentally, morally and physically superior to the class of warder now obtained. It is claimed that the responsible duties thus bestowed on prisoners give them a sense of self-respect and fit them for return to free life to a much greater extent than any industrial occupation could do, and that the existence of this system saves the Indian prison from exercising that deadening influence which is the general effect of prison life in other countries. On the other hand, those who condemn the Indian convict officer system, consider that it is contrary to principle to place one prisoner, while still undergoing the punishment to which he has been sentenced by the courts, in a position of authority over his fellow prisoners. Again, it is pointed out that the convict officer, however apparently well-behaved, is a criminal, a man whose actions have proved that he requires reformation. Is it likely, it is asked, that such a man is going to exercise a good influence on those around him? Is it in accordance with sound penological principles to place other prisoners under the control of thieves, forgers, murderers or dacoits? Is such a system in accordance with the ideal laid down in Chapter III of this Report, where it is declared that the whole prison staff should be so chosen that it may exercise a salutary influence on the prisoners under their control? It is not fair, it is urged, to expose these prisoners to the influence of convict officers merely in the hope that some of those who are employed as convict officers will benefit by the training.

Employment of convict officers excessive.

84. We do not propose to offer any finding on these two opposing views because we are not ourselves in agreement as to which opinion should prevail.

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but there are certain practical conclusions on this subject as to which we are unanimous. We are all agreed that the extent to which convict officers have been employed in Indian prisons is excessive and should be reduced. Introduced originally as a system of reward and reformation for deserving prisoners, it has degenerated in some parts of India into a mere means of effecting an economy in paid establishments. It is largely to this cause that is due, we think, the inadequate staff of paid warders provided in some Provinces. The following figures show the sanctioned scale of permanent warders, exclusive of the reserve guard and of apprentices, in the central prisons of the United Provinces:—

Central prison.	Daily average Male population in 1918.	Head warders.	Warders.	Total.
Benares	1,427	12	13	25
Lucknow	1,774	13	13	26
Allahabad	1,732	12	15	27
Fatehgarh	1,810	13	12	25
Bareilly	2,083	13	14	27
Agra	1,907	13	22	35

We have no hesitation in saying that this establishment is wholly inadequate, and the result of such a scale of paid warders is that the internal control of the prison is largely in the hands of convicts. Both the present and the past Inspectors-general of Prisons in the United Provinces agree that far too extensive a use of convict officers has been made in those Provinces and the same, though perhaps to a less extent, is true of all other Provinces.

Difficulty of finding qualified prisoners.

85. The ill effects of the excessive employment of convict officials have of late years been aggravated by the difficulty in finding a sufficient number of prisoners duly qualified under the rules for such employment. These rules, as laid down in most Provinces, were intended to secure that no prisoner should be eligible for appointment as a convict officer unless and until he had completed a reasonable proportion of his sentence and had proved by long-continued good behaviour that he was fit to be placed in a position of trust. Owing to various causes, among which are believed to be the large number of releases made from time to time in recent years in honour of public events and the number of prisoners sent to join labour corps in Mesopotamia during the War, a sufficient supply of prisoners qualified under the rules has not of late been forthcoming. In consequence men have, with the sanction of the Inspector-general, been employed as convict officers, whose sentences are only for from six to twelve months, and when they have done only half their sentence. Thus a criminal may find himself in the position of a convict officer within a very brief time after conviction. In one jail in Bengal out of 150 convict overseers actually employed, 99 were ineligible under the rules, while in a jail in Bihar and Orissa out of 129 convict officers, 90 were not eligible under the rules. It was in fact generally admitted that the system, as originally devised has been exposed to

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a very unfair strain in recent years. It has broken down and is no longer being worked under the conditions originally considered essential for its proper conduct.

No convict to be outside barrack at night.

86. The need for a larger staff of paid warders has already been strongly insisted upon in Section III of Chapter V, of this Report. We now recommend that the duty of guarding prisoners in cells and dormitories at night should be entrusted only to paid officials and that no convict officer should be outside his barrack at night. We consider this to be essential. More than one jailor witness referred to the difficult position of a paid warder inside a jail with a large number of convict officers let loose around him. Men cannot be expected to enforce discipline and to prevent irregularities under such conditions, and we trust that in all Provinces early steps will be taken to provide such a force of paid warders as will enable the use of convict officers outside the barracks at night to be entirely dispensed with. Some Members * of the Committee, however, consider that if any local Government is not prepared to carry out this recommendation in its entirety it is at least necessary that a paid warder should be on duty in every enclosure at night.

No convict officer to be in independent charge.

87. A further recommendation on which we are agreed is that no convict officer should have *independent* charge of any file, gang, or other body of prisoners or should have independent power to issue orders to prisoners, but that there should always be a paid officer in superior charge, under whose control and orders the convict officer should work. Such instructions as are contained in clauses (*b*) and (*c*) of rule 381 (3) of the Punjab Jail Manual seem to us to be objectionable and to require revision. Convict officers should be used to assist and supplement, not to replace, paid staff. In this way it is hoped that the objections to placing one prisoner in control of another will, if not entirely removed, be reduced to a minimum.

Grade of convict warder to be abolished.

88. In consequence of the recommendations contained in the two preceding paragraphs, we consider that the retention of the grade of convict warder is unnecessary and that it will be sufficient in future to have only two grades of convict officers, namely, the convict night-watchman, who will be employed exclusively inside the barrack at night, and the convict overseer who will perform such duties as may be committed to him by day. We hope that these recommendations will result in a substantial reduction in the number of convict officers employed. This number seemed to be particularly large in Burma. Thus in the Rangoon Central Jail we found that in the year 1919, a daily average number of 540 convict officers was employed in a daily average population of 1,935 prisoners. Of these 540,435 were convict night-watchmen, a class which in this Province, unlike other Provinces, is not required to work by day. In this Province as a whole, no less than 2,822 prisoners are on an average employed

*Sir James DuBoulay, Colonel Jackson and Sir Walter Buchanan.

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as convict officers out of an average population of 13,292 prisoners sentenced to labour, or over one-fifth of the total. As these convict officers mostly do no work except supervision, their employment represents a substantial loss to the State, the average earnings of a prisoner sentenced to labour being Rs. 33 per annum.

Divergent opinions.

89. One of our number * would go further than the above recommendations, and would abolish the convict officer system altogether. He objects to any convict being placed in a position to exercise authority, direct or indirect, over other prisoners, and to any prisoner's being given any title which implies superiority to the general body of prisoners. Another Member † of the Committee agrees with this view in principle but feels that if the recommendations made above are carried out, so great an advance will be effected that it may be regarded as sufficient for the present.

Remission and gratuity to convict officers.

90. We are agreed that the rules regulating the qualifications for promotion to the position of convict officer, and as far as possible the duties and privileges of convict officers, should be uniform in all Provinces. We recommend that the remission and gratuity admissible to convict officers should in all Provinces be as follows :—

	Remission per mensem.	Gratuity. per mensem
Convict night-watchmen	5 days	8 annas.
Convict overseers	6 days	Rs. 2

The convict night-watchman will be eligible, in addition to this gratuity, for reward for outturn in excess of task under paragraph 250 below.

Convict officers in simple imprisonment yards.

91. Convict officers required for employment in yards or barracks reserved for prisoners sentenced to simple imprisonment should, as far as possible, be drawn from the ranks of simple imprisonment prisoners.

Convict officers in habitual yards and jails.

92. Under existing rules no habitual convict may, in any case, be employed as a convict officer, with the result that first offenders are now placed in charge of habitual gangs and are locked up, as convict night-watchmen, in habitual barracks. This arrangement is open to very serious objections. It practically results in the abandonment, so far as convict officers are concerned, of the principle of separating habituals from first offenders, which is one of the elementary requirements of a sound prison system. Several witnesses told us of the bad effects which follow from the practice of putting first offenders as convict officers in habitual barracks. Not only are the first offenders often incapable of maintaining order among a number of habitual prisoners, but they are themselves liable to come under the influence of these old offenders and to become completely corrupted. The system is indeed, from all points of view,

*Mr. Mitchell-Innes.

†Sir Alexander Cardew.

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indefensible and should be everywhere and at once abolished. So long as habituals are kept in associated barracks, there must be some one in each barrack to perform the duties of a convict night-watchman and we therefore recommend that the employment of habituals in that capacity should be sanctioned, it being distinctly understood that this is strictly limited to employment within the barracks reserved for habituals or, when there is a habitual jail, within that jail, and that no habitual shall be employed as a night-watchman in any non-habitual barrack. Nor do we recommend the promotion of habituals beyond the grade of convict night-watchman in any jail, even a jail reserved entirely for habitual prisoners. It is, we think, undesirable that this class of prisoner should be given the duties and privileges of a convict officer, and in a habitual jail there should be a sufficient staff of paid warders to render the use of convict officers, except as convict night-watchmen inside the barracks, unnecessary. If, as some of us recommend, habitual jails are as far as possible cellular in design, the necessity even for convict night-watchmen will disappear. In ordinary jails, we think that paid warders, and not convict officers, should be in charge of habitual gangs and workshops, and that the principle that no first offender is to enter the habitual portion of the jail should be strictly adhered to.

Examination from liability to ankle rings and fetters

93. Under the rules in force in some Provinces, *e.g.*, in Bengal and Bombay, all classes of convict officers are exempt from liability to ankle-rings and fetters. In other Provinces this exemption extends only to convict warders, while in others again no such exception seems to be recognised. At some of the jails we visited we saw convict officers actually on duty in fetters. It seems to us that the existence of the convict officer system makes it most desirable that all that possibly can be done to encourage and maintain a sense of dignity and self-respect among convict officers should be done. It is quite contrary to this principle that convict officers should be made to wear fetters. If it is necessary to impose fetters on any convict officer, he should first be reduced from the grade of convict officer to that of ordinary convict. We recommend that exemption from liability to wear the ankle-ring (if it is not abolished) and to wear fetters should attach everywhere to all grades of convict officer.

CHAPTER VII.

CLASSIFICATION AND SEPARATION OF PRISONERS.

Section I.—The Habitual Convict.

Views of International Congresses on the classification of prisoners.

94. The importance of the due classification of prisoners and the separation of one class from another is an accepted principle of jail administration. The subject was discussed at several International Penitentiary Congresses, the question chiefly at issue being whether the classification should be directed towards the isolation of the worst or of the best class of prisoner. At the Congress of 1905 it was decided that the classification of the worst type of criminal is the most important object and that this may be based either on the prisoner's previous record or on his conduct in prison. The view was also expressed that the treatment of the worst class should be made more severe than that of other classes, and at the previous Congress of 1900 it had been agreed that though length of sentence is the only effective cure for recidivism, in countries which use the two methods of cellular and associated detention, certain distinctions in the way of classification, location, employment and gratuity between recidivists and others might usefully be resorted to.

System of classification followed in England.

95. These conclusions of the International Penitentiary Congresses seem to be to some extent in contravention of the English system, where one of the principal results of the Kimberley Commission was the establishment in 1881 of the Star class in convict prisons and later in local prisons, involving a classification of the best, and not the worst, prisoners. But, as Sir Evelyn (then Mr.) Ruggles-Brise pointed out at the time, the selection of the worst does not exclude the classification of the best; the two systems can be carried on concurrently; and in fact the separation of habitual criminals from others is recognised and given effect to in England.

History of classification of prisoners in India.

96. In India the question of classification of prisoners was first prominently brought forward by the Jail Conference of 1877. That Conference was not able to agree as to the definition of "habitual" which should be adopted, but they were unanimously in favour of separating from other prisoners the worst class of offender, *i.e.*, habitual offenders and men who, though convicted for the first time, were guilty of such offences that they could run no risk of contamination by association with habituals. The Government of India took up the subject in

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January 1884, when reviewing the jail statistics for 1882. After some discussion it was decided to consult all local Governments, and this was done in 1885. Finally in a Resolution No. 27-1804-14, dated the 14th December 1886, the Government of India issued orders defining a habitual offender and determining by what authority habituals were to be so classed, and these orders have been in force in all Provinces from that date.

Practical carrying out of the rules regarding classification.

97. All witnesses who gave evidence before us approved of the maintenance of the system of classifying and segregating the worst class of criminal. There was general agreement as to the bad influence which this class of convicts, that is, the habitual, is able to exercise, when allowed to be in contact with less hardened offenders, and as to the need for their separation. It appears, however, that in several Provinces this separation has in practice been very imperfectly carried out. We came across numerous instances where habitual convicts were employed indiscriminately with non-habituals ; and although at night separation is universally required by standing orders, we were informed by more than one experienced jail officer that it was not always carried out, owing largely to overcrowding. In hospital, moreover, it is impossible to separate the two classes effectively and the difficulties of complete separation, when habitual and non-habitual prisoners are confined in the same jail, are undoubtedly very great.

Separate jails should be set apart for habitual criminals.

98. We have, therefore, come to the conslusion that the only satisfactory solution of these difficulties is the provision of separate jails for habitual prisoners. A commencement of this system has been made in one Province, Madras, and has been found there to work well. No doubt it cannot immediately be carried out in all Provinces, but if the principle of providing separate jails for habituals is accepted, we think that little difficulty will be found in most Provinces in setting apart one or more jails for the purpose. In the statement annexed to this Chapter will be found the actual number of habituals who were undergoing confinement in the jails of each Province on the 31st December last. It will be seen that the proportion of habituals to total population varies from 6.4 per cent. in the North-West Frontier Province to 57.4 per cent. in the United Provinces, the proportion for the whole of India being 41.1 per cent. Even if, as we expect, the effect of our proposed revision of the definition of habitual mentioned below is substantially to reduce this proportion, there will still be enough habituals in all the larger Provinces to fill one or more jails. It should be possible, without any fresh construction, to select some centrally situated jails, to use them as habitual jails for the surrounding districts and to utilise the accommodation thus made available in other jails for non-habitual prisoners. We attach great importance to this provision of separate jails for habituals and regard it as one of the most important reforms yet to be introduced into Indian prison management.

Criticisms on existing definition of a habitual criminal.

99. For the due carrying out of the segregation of the habitual, a sound and workable definition of that term is very necessary. The difficulty of framing a

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satisfactory definition is generally admitted, but there was a large body of opinion among the persons whose evidence we received that the existing definition which was framed, as above stated, in 1886, is not satisfactory. This is partly due to the fact that the definition is so largely based on section 75 of the Indian Penal Code. That section permits enhanced punishment to be imposed if even a single previous conviction for an offence punishable with three years' imprisonment or upwards under Chapters XII or XVII of the Indian Penal Code is proved against the accused. As a provision of the Penal Code this is not only reasonable but necessary, for, owing to the infinite variety in the circumstances of crime, it is essential to invest the courts with the widest possible discretion as to the infliction of heavier penalties on the ground of previous conviction. No court is compelled to make use of the power, if it considers that the circumstances do not require it, and hence the section can be applied or not, according to the circumstances of the case. When, however, the provisions of the section are imported into a definition of habitual for the purposes of prison classification, its effect is entirly different. The definition is clearly intended to constitute a guide or direction to judicial and prison authorities as to what prisoners should be so classified. Although the definition does not in terms declare that every prisoner who falls within it shall be classified as a habitual, it seems to involve that implication. In the revised form in which it was re-circulated with Home Department letter No. 53-61, dated 22nd February 1910, it seems to suggest that if neither the convicting court nor the district magistrate has classified as a habitual a prisoner who falls within the definition, it is the duty of the superintendent to do so, unless indeed the court has made an express order to the contrary. The second proviso to the definition says "when there is room for doubt whether a prisoner shall be so classed or not, the officer-in-charge of the prison shall refer the case for the orders of any such court or magistrate." It is difficult to resist the implication that, when there is no room for doubt, the superintendent, in the absence of any order by the court or district magistrate, shall classify the prisoner as a habitual, if he falls within the definition.

Practical application of existing definition and its results.

100. This is the view that has in practice been adopted by the prison authorities, with the result that every prisoner who falls within the definition is usually classed and treated as a habitual. From this position two consequences follow. In the first place men are classed as habituals on the ground of a single previous conviction, whose cases raise no presumption of moral corruption nor any necessity for such classification. Thus a man who was convicted as a boy for a theft of fruit and perhaps fined a rupee or two, if he enters jail ten years later for an offence under Chapters XII or XVII of the Indian Penal Code, falls within the definition and is classed as a habitual. Again, if a ryot cuts a tree, which he claims to be within his boundary, and it is found to stand in government land, he is convicted of theft of the tree and fined a small sum; it may be that he does not appeal because the cost and trouble of the appeal is in excess of the fine or he may have no right of appeal; but if twenty years later,

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he gets into fresh trouble, this subsisting conviction will constitute him a habitual and render him liable to be kept in association with the worst class of criminal. The second consequence is that the persons classed as habituals include very varying degrees of criminality. This was so much felt by our witnesses that some of them suggested the recognition of two classes of habitual, the "confirmed" or "chronic" habitual and "other" habituals. Other witnesses suggested that a previous conviction for an offence against property should not make a man a habitual unless it was punished by imprisonment. Others again suggested that the term "professional criminal" should be substituted for "habitual" in oredr to bring out the fact that the class intended to be segregated is the professional thief, burglar or cheat and not the man who has, possibly at long intervals of time, twice committed himself.

Need for revised definition of habitual.

101. These criticisms seem to us to indicate the need for some revision of the existing definition of habitual. That definition cannot be framed in hard and fast terms, because it must be sufficiently elastic to cover all suitable cases. It ought to contain a clear description of the class of prisoner aimed at, so that the courts and prison authorities may understand the object in view. Such a description is absent from the present definition. It should not, merely refer to section 75 of the Indian Penal Code because, for reasons already stated, what is suitable as a discretionary power in the hands of a court is unsuitable as a fixed rule for a jail officer. Lastly it should, we think, clearly leave to the classifying authority discretion to apply the definition with due regard to the circumstances of each individual case. No doubt it would be convenient if a definition could be devised that would fit all cases; leave nothing to discretion and yet cause no hardship, but circumstances vary too much for this to be possible. The classifying authority must, therefore, be trusted to apply the definition with prudence and judgment.

Should classification as habitual depend only on previous conviction?

102. The next question is whether, in classifying a prisoner as a habitual, a previous conviction or convictions should be an essential ingredient or whether such classification may be based on the general character of the accused, as disclosed at the trial. The definition laid down in 1886 allows either consideration to be relied on. Under that definition a man may be classed as a habitual either because he has been previously convicted or because he is believed "to depend on crime as a means of livelihood or to have attained such an eminence in crime as to warrant his being classed with habitual or class B criminals." Curiously enough the words here quoted do not appear in the revised form of the definition which was circulated to all local Governments with Home Department letter No. 53-61, dated the 22nd February 1910. Apart from this fact, however, we do not think that even the convicting court should have power to class a man as a habitual merely on the ground of evidence of general character and conduct which may have come out in the course of the trial. In the first place, the accused's general conduct and character are seldom questions in issue before the

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court. Unless the questions are formally raised and tried, evidence being admitted on both sides, a court's opinion that the accused made his living by crime or had attained to eminence in crime is generally in the nature of an *obiter dictum*. In the second place, experience has not shown that the courts have in the past exercised the power given to them by the existing definition with much discrimination. The general impression which we derived from the evidence given before us was that the courts had done the work of classification perfunctorily in the past. In the future the results of being classified as a habitual will be even more serious for a prisoner than hitherto, for under the proposals made in Chapter XVI no habitual's case will come up before the revising board until he has completed two-thirds of his sentence. We think, therefore, that in the revised definition of habitual, the existence of one or more previous convictions should be an essential condition of classification as a habitual. We would, however, include within the term "previous conviction" an order to find security under sections 110 and 118 of the Criminal Procedure Code, because such an order is made only as the result of regular judicial proceedings and is in fact as much a judicial finding on facts directly in issue as a regular conviction or acquittal.

Power necessary to segregate prisoners of vicious character who are not habituals.

103. While, therefore, we would make a previous conviction the necessary condition for classification as a habitual, we recognise that cases may arise where it is desirable to segregate offenders who, in the words of the Jail Conference of 1877, "though convicted for the first time may be found guilty of offences implying such a high degree of criminality that they can run no risk of contamination by associating with habituals." Although we would not include such offenders in the term "habitual", we think that the Inspector-general of Prisons should be permitted to direct that they shall be sent to the habitual jail when one exists, or if there is no habitual jail that they shall be kept in the habitual yards of the ordinary jail. We have noticed in paragraph 110 below the classes of prisoners who, we think, might thus be segregated from other non-habitual prisoners. Such segregation is intended to remove the danger of their contaminating other non-habitual prisoners. It is thus based solely on moral grounds and will not render the prisoner so segregated liable to such other consequences as those contemplated in Chapter XVI.

By whom the classification of habituals should be made.

104. It is also necessary to determine by whom the classification of habituals should be made. In Great Britain this duty is entrusted to the prison authorities. They rely not only on the record of any previous conviction but on the result of inquiries made either through the police or direct regarding the prisoners' previous history. References are made to school masters, employers, or other persons, as to the man's conduct and reputation and all the facts thus ascertained are taken into account. It should be added that classification as a recidivist in England is intended merely for the purpose of segregation. We do not think this system would be suitable in India. Public opinion would certainly not approve of prisoners being classified merely on the basis of inquiries made

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through the police. On the other hand, the other sources of information relied on in England are not available in India. The paucity of organised industries would make it difficult to get information from employers of the same class as are found in England. The presence of faction in the villages would throw doubt on such reports as might be thence obtained, *e.g.*, from the village headman. We think, therefore, that, as we have said, it is best to rely mainly on the record of previous conviction and to retain the existing rule which allows the court, the district magistrate and the superintendent of the prison, subject to the control of the district magistrate, to classify.

Every prisoner should have opportunity of showing cause against classification as a habitual before it is carried out.

105. We think, however, that it is very necessary that every prisoner, before he is classed as a habitual, should be given a reasonable opportunity of knowing the grounds on which such classification is proposed and of showing cause to the contrary. Under existing procedure no such opportunity is afforded and a man may find himself classed as a habitual and confined with habituals, without any previous intimation of why this course is taken. We do not wish to suggest the adoption of any elaborate procedure. When the classification is made by the convicting court or by the district magistrate, we would deprecate its taking the form of a judicial proceeding. The prisoner should be asked whether he admits the previous convictions on record against him. If he does, he should be asked whether he has any reason to allege why, in view of those convictions, he should not be classed as a habitual. If he denies the previous convictions, they must be proved by finger-prints or other evidence of identity, but this will seldom be necessary. A similar method should be followed when the prisoner is classed as a habitual by the superintendent of the jail.

Defects in methods of classification

106. One view which may here be noticed is that the means now used for the classification of the habitual are arbitrary and unscientific. There is another method which is advocated by some Members* of the Committee and is stated as follows in their own words :—" While the prisoner's previous history, associations, environment and present conviction should be taken into account, an equally necessary step is an exhaustive medical examination, which should include a careful determination of the mental condition of the prisoner by modern psychological and psychiatrical methods. A classification so carried out could best be done by the prison authorities but, if determined by the courts, the judicial authorities would be greatly assisted by such an examination. This procedure will reveal the mentality of the prisoner, whether feebleminded, border-zone or normal, and whether he is suffering from any psychosis or psycho-neurosis ; it will, in many cases, discover volitional or emotional disorder, mental disturbance or abnormality. These conditions, though they may not be classifiable under any definite heading of mental disease, are yet frequently the cause of the crime or the origin of a criminal career, throwing a very considerable light on the

*Colonel Jackson and Sir Walter Buchanan.

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moral nature of the prisoner, furnishing, more than any other single factor, a true basis for a correct classification and determining in a great degree eligibility for release on parole or the necessity for prolonged detention." Other Members of the Committee do not altogether accept these views but we do not propose to deal at length with them at this point because the subject is fully discussed in Chapter XIII.

Proposed revised rules.

107. In order to give effect to the conclusions stated in the foregoing paragraphs, we recommend the adoption of the following revised rules defining and prescribing the treatment of the habitual or habitual criminal, namely :—

I. A "habitual" or "habitual criminal" means :—

(*i*) any person convicted of an offence punishable under Chapters XII, XVII and XVIII of the Indian Penal Code, whose previous conviction or convictions taken in conjunction with the facts of the present case, show that he is by habit a robber, housebreaker, dacoit, thief or receiver of stolen property, or that he habitually commits extortion, cheating, counterfeiting coin, currency notes or stamps, or forgery ;

(*ii*) any person convicted of an offence punishable under Chapter XVI of the Indian Penal Code, whose previous conviction or convictions taken in conjunction with the facts of the present case show that he habitually commits offences against the person ;

(*iii*) any person confined in default of security under section 123, read with section 110, Criminal Procedure Code.

Explanation.—For the purposes of this definition the word "conviction" shall include an order made under section 118, read with section 110, of the Criminal Procedure Code, and shall relate only to convictions by a court in British India, or in the territories of a Native Prince or State in India acting under the general or special authority of the Governor-General in Council, or of a local Government, or by a court in Great Britain or in any British colony.

II. Any convicted person may be classed as a habitual :—

(*i*) by the convicting court, or

(*ii*) if the convicting court omits to classify, by the district magistrate, or

(*iii*) in the absence of an order by the convicting court or district magistrate, and subject to the control of the district magistrate, by the officer in charge of the jail where the convicted person is confined.

Provided that no person shall be so classed unless he has received notice of the proposal to classify him as a habitual, with the reasons, and has been given an opportunity of showing cause why he should not be so classed.

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III. The court or the district magistrate may, for reasons to be recorded in writing, direct that any convicted person shall not be classed as a habitual and may revise such direction.

IV. Convicting courts or district magistrates, as the case may be, may revise their own classifications, and the district magistrate may revise the classifications of any magistrate subordinate to himself, or of the superintendent.

V. Every habitual shall as far as possible be confined in a special jail in which no prisoner other than habituals shall be kept.

Provided that the Inspector-general of Prisons may transfer to this special jail any prisoner, not being a habitual, whom for reasons to be recorded in writing, he believes to be of so vicious or depraved a character and to exercise, or to be likely to exercise, so evil an influence on his fellow prisoners that he ought not to be confined with other non-habitual prisoners, but a prisoner so transferred shall not otherwise be subject to the special rules affecting habituals.

Main object of revised definition.

108. The chief object of the definition, as thus revised, is to emphasise the general conception of the class of criminals to be classified as habitual and segregated apart from all other prisoners, namely, those who have formed *a habit of crime.* They need not necessarily be professional criminals, but they must be proved by previous conviction, taken in conjunction with their latest offence, to be given to the habitual commission of crime. Previous conviction will not necessarily constitute a man a habitual criminal ; the classifying authority must also be satisfied that he has the habit of crime. It will be seen that we propose to include within the definition only persons whose offences fall under Chapters XII, XVII and XVIII or under Chapter XVI of the Indian Penal Code. No doubt, there may be persons who are repeatedly punished for other offences. Such offences, however, seldom imply such depravity of character as those punishable under the Chapters above specified, and as the object of the definition is to secure the classification and segregation of the worst class of criminal, we think it is undesirable to add any direction, such as exists in the present rule, which might result in persons frequently convicted of minor offences, as for instance against the Excise law or against Municipal Acts, being classed as habituals.

Members of criminal tribes not necessarily habituals.

109. Nor do we think it desirable to lay down that every member of a criminal tribe who comes into jail should, without further evidence of previous crime, be classed automatically as a habitual. In our Chapter dealing with Criminal Tribes we have set out in considerable detail our opinions on the correct point of view in dealing with those people. It is perhaps unavoidable that when a member of a criminal tribe falls within clauses (*i*), (*ii*) or (*iii*) of the definition, he should be treated as a habitual and be segregated in a habitual jail, though he may not be a specially depraved person and may merely be carrying on an ancestral calling ; but we would not go further or treat every member of a criminal tribe as *ipso factor* a habitual.

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110. The power proposed to be conferred on the Inspector-general to transfer depraved or vicious prisoners to a habitual jail already vests in him under the Prisoners Act, 1900. It will enable the jail authorities to remove and segregate those classes of persons, already referred to, who are indicated in clause (2) under "Firstly," in the present definition, that is, men who are known to have made a living out of crime and therefore are likely to have an unwholesome influence on their fellow prisoners, or men who have been prominent in crime though they have never before been convicted, such as the man who terrorises his neighbourhood, maintains a gang of disorderly followers with which he organises attacks on persons who venture to offend or oppose him, and the like. It may also be applied to the worse sexual offenders, men who are known to have been concerned in traffic in women or to be addicted to the practice of sodomy. Such persons may, we think, well be isolated, on moral grounds, in the separate jail or jails reserved for the worse type of criminal, but we would not class them as habituals unless they fall within our definition. We do not think that they ordinarily are held to fall within the present definition of a habitual criminal.

Vicious prisoners to be segregated though not classed as habitual.

111. Under rules in force in certain Provinces every prisoner who at any time escapes, or attempts to escape, from jail is to be thenceforward treated as a habitual offender. The object of this provision is presumably to add an additional deterrent against escape, but it seems to us to be quite mistaken in policy. If the other penalties which attach to escape, or attempt to escape, such as loss of all remission previously earned, possible exclusion from future remission, and liability to prosecution and additional imprisonment, are not sufficient to deter a prisoner from attempting to escape, the fact that it may also involve classification as a habitual will have little effect. On the other hand, to subject a non-habitual prisoner, whose escape or attempt to escape is no evidence of corruption of character, to the contaminating influences of association with habituals, appears to us to be contrary to sound principles and to be unfair to the prisoner. We therefore recommend that this rule, wherever it exists, should be abrogated.

Escape or attempt to escape not to constitute a habitual.

112. Some of the witnesses who gave evidence before us advocated the entire exclusion of habituals from the remission system. We are unable to approve of such a proposal. The object of the remission system being to supply a reformatory influence and an incentive to good conduct in jail, it seems to us that the habitual criminal stands in need of this influence and incentive as much as, if not more than, other prisoners. It may not be possible for habituals, owing to their exclusion from employment as convict officers, to earn as much remission as other prisoners, but we would allow them to come under the operation of the ordinary rules governing the remission system, so far as they apply.

Habituals not to be excluded from the remission system.

113. Other witnesses proposed that habituals should be subjected to specially severe forms of labour. On this point we consider that as all prisoners

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(unless sentenced to simple imprisonment) are liable to hard labour, all employment should be so regulated as to exact from the prisoner the maximum task which an average prisoner is able to perform and that, therefore, there should be no room for imposing higher task on the habitual criminal. The employment to be provided for prisoners in habitual jails should be regulated in accordance with the general principles laid down in Chapter IX of this Report.

Habituals to sleep in separate cells at night.

114. Another view which was expressed by a considerable number of witnesses was that all habitual convicts should sleep in separate cells at night. This was advocated partly on the ground that such separation would add a fresh deterrent element to imprisonment, partly because it would lessen the opportunities for contamination of one prisoner by another. This is in accordance with the view which found acceptance on one of the questions considered at the International Prison Congress at Brussels in 1900, and is accepted by half* the Committee. As indicated in Chapter VIII of this Report, the other half † of the Committee dissent from this view and see no reason or desirability for providing separate sleeping accommodation for more than thirty per cent. of the habitual population, even in a habitual jail.

Habituals not to be employed as convict officers.

115. In most Provinces a rule is already in existence which prohibits the employment of any habitual as a convict officer. We think that this prohibition should be strictly maintained, except in so far as a habitual may be employed as a convict night-watchman in habitual wards, as already explained in Chapter VI (paragraph 92). Under the definition of habitual proposed in this Report, the reasons for forbidding the employment of habituals as convict officers will be stronger in the future even than they have been in the past and there is no reason for altering the policy hitherto pursued.

Rules as to habituals: how far applicable to females.

116. It will doubtless be understood that while our proposed definition of a habitual criminal may be taken as applicable both to males and females, it may not be possible, owing to the cost involved, to provide a separate prison for the small number of female habituals to be dealt with, especially in view of the wide area over which they are scattered. If in any Province a special prison can be arranged, we hope that that will be done. In that case it will be possible, under the proviso to clause V of the draft rules in paragraph 10, to segregate in this separate prison such persons as procuresses, keepers of houses of ill-fame or the worse type of prostitute, even though they may have no previous conviction. Where it is not found possible to provide a separate jail for female habituals, the most complete amount of separation which can be arranged in ordinary jails should be carried out. We refer to this again in Section VI of Chapter XVII (paragraphs 495 and 496).

*Sir Alexander Cardew, Sir James DuBoulay and Mr. Mitchell Innes.

†Colonel Jackson, Sir Walter Buchanan and D. M. Dorai Rajah of Pudukottah.

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Rules as to separate habitual jails liable to modification in view of local conditions.

117. As we have already remarked, it will not be possible in all Provinces at once to provide special jails for all habituals. In many cases too it may be unavoidable that a part of the accommodation in habitual jails should be utilised for short-term prisoners or for non-habitual prisoners *en route* to an ordinary jail. Such departures from the general plan proposed must necessarily be left to be dealt with in accordance with local conditions.

Section II.—The Non-habitual Convict.

The Star class in Great Britain.

118. In the first Section of this Chapter we have noticed the fact that at the International Prison Congresses held in Europe it was decided that the classification of the worst offenders was the most important point to be attended to, but that this does not necessarily preclude the adoption of a system of classification of the best prisoners also, and that such a system has for the last forty years been the main feature of the methods of classification in force in Great Britain. The Star class, as there constituted, is not very strictly defined. It is to consist of convicts who have not been previously convicted of serious crime and whose previous life has not been habitually criminal or their habits depraved. One or even two previous convictions for a trivial offence or a previous conviction which occurred several years before would not debar a man from being placed in the Star class. In estimating the question of corrupt habits, as apart from convictions, no attempt is made to lay down a hard and fast line and each case is dealt with on its merits. Thus, a man convicted of a single offence of bigamy would ordinarily be placed in the Star class, but a persistent bigamist, whose history shows that he had made a practice of committing that crime, would be excluded. Rape cases would, apparently, be usually regarded as suitable for the Star class, but rape on children, where more than one child has been assaulted, is usually held to debar admission to that class. In cases of fraud, it is suggested that the duration of the fraud, the temptation, the manner in which the sums fraudulently obtained were employed, and even the effect on the victims of the fraud should be taken into account. Receivers of stolen goods, coiners, confirmed black-mailers, members of a gang of "long firm" swindlers, female abortionists, and similar cases indicating prolonged and persistent crime are excluded. The Star class is said to be intended for what the French call "*crimes d' occasion*", not for those of habit. The question to be considered in each case is whether the convict's past history and mode of life prior to conviction show so perverted a moral sense that he would exercise a bad influence over other Star class prisoners with whom he might come in contact.

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Effect of this classification in British prisons.

119. The effect of the classification, as thus arrived at, does not extend beyond separation. The convict included in the Star class receives no indulgences in regard to diet, labour, remission, gratuity or otherwise. He is simply separated as far as possible from other prisoners, whether at work, at exercise or in chapel, and his cell is so situated that he cannot come in contact with persons of other classes. The classification is based on inquiries made of the police or of any respectable persons whom the prisoner may name, or who are likely to furnish reliable information. It is necessarily made as early as possible after a prisoner's admission, but the governor and the chaplain of the prison are required to observe the prisoner's conduct and disposition and to report if the classification seems to require amendment. Prisoners not included in the Star class, unless they are juveniles, fall within the other or "ordinary class," but in the English penal servitude prisons there is also a separate class for recidivists.

Reasons for introducing a Star class in Indian prisons.

120. The Star class system, as it exists in Great Britain, appears to us to be especially suitable for adoption in Indian prisons because of the large extent to which association at night prevails. Even when the habitual criminal, as proposed in future to be defined, has been eliminated and placed in a separate jail, there must still remain a great distinction between the prisoner whose crime is due to impulse or to wrong social custom, and the man whose conduct indicates a cruel or depraved mental and moral state. Thus it was much pressed upon us in the North-West Frontier Province that a man who there kills an unfaithful wife or her paramour is simply carrying out what is regarded as a duty imposed on him by the social code. Such men, it may be said, are not any more criminal than the man who in the seventeenth or eighteenth century thought it a point of honour to avenge an insult in a duel. Even in other parts of India, though the social code is less exacting, Indian opinion goes far towards condoning such crimes. The same is more or less true of the less grave forms of offences against property. A man is subjected to some sudden or powerful temptation and commits either a fraud or a theft. Under the proposals which we make in later portions of this Report, he would often be released on probation, but if that course cannot be followed and he is sentenced to imprisonment, it is certainly desirable that he should as far as possible be protected from further contamination in jail. If the proposals regarding the provision of separation at night are carried out, such a prisoner will not be locked up with other prisoners, but it must be a very long period before sufficient cellular accommodation can be everywhere provided and in the meantime a separate classification analogous to the English Star class would be of great use.

Star class as proposed to be introduced in India.

121. We accordingly recommend that in all non-habitual prisons, all convicted offenders other than habituals shall be divided into two classes, namely (*a*) the Star class, and (*b*) Ordinary. The Star class shall include such prisoners as may be selected by the superintendent, (subject to the control of the Inspector-general) on the ground that their previous character has been good, that their

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antecedents are not criminal, and that their crime does not indicate grave cruelty or gross moral turpitude or depravity of mind. As in England, one or more previous convictions would not exclude a prisoner from the Star class, if they were for petty offences. Even a conviction for serious crime should not be regarded as a bar, if it was committed several years before and if, during the intervening period, the prisoner has led generally an honest life. The age of the offender at the date of any previous conviction and at the date of his present offence should, of course, be taken into account ; the whole circumstances of the case should be considered with a view to determining whether the prisoner is already of so corrupt a mind or disposition that he may contaminate others and cannot be much further corrupted himself, and the question should be decided in a common-sense manner and not on any hard and fast lines.

Effect of Star classification.

122. The effect of being placed in the Star class would, as in Great Britain, apply only to segregation, which should extend to sleeping accommodation and parades and, as far as possible, to labour. Where separate cells can be provided and the prisoner who is placed in the Star class prefers to be thus separated, his wishes should, as far as may be, be complied with. Where only association wards exist, every endeavour should be made to confine Star class men together, without admixture of other offenders.

Section III.—Simple Imprisonment and Connected Questions.

Further divisions of prisoners in Great Britain.

123. From the account which has been given in paragraph 118 above of the system of Star classification as it exists in Great Britain, it will have been understood that this classification is made entirely by the prison authorities and results only in the separation of the Star class prisoners from prisoners not so classified. In addition, however, to the system of Star classification, the English prison system recognises other divisions of offenders, these being made by the convicting court and not by the jail authorities and involving certain other consequences besides segregation. Section 6 of the Prison Act, 1898 (61 and 62 Vict. cap. 41), provides that convicted persons not sentenced to penal servitude or hard labour shall be divided into three divisions. If no direction is given by the court the offender shall be treated as an offender of the third division and he is in that case treated under the general prison rules and has no differential privileges. If, however, the court " having regard to the nature of the offence and the antecedents of the offender " directs that the prisoner be treated as an offender of the first or the second division, he is specially dealt with in prison. The Act further provides that persons imprisoned in default of finding sureties to keep the peace or be of good behaviour shall be treated in the first or second

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division, unless they are convicted prisoners, and that persons imprisoned in default of payment of a debt or in lieu of distress, when the imprisonment is to be without hard labour, shall be placed in one of the three special divisions.

Offenders in the first division.

124. An offender of the first division is kept apart from all other classes of prisoners; he is placed in a room or cell specially appropriated to prisoners of this class; he is allowed to supply his own food, which may include limited quantities of wine or beer, to wear his own clothing, and to provide his own furniture. On payment of a small sum weekly he can have a room or cell specially furnished and assistance in keeping it clean and tidy. He is not required to work, but may be permitted either to follow his own trade or profession or, at his option, to be employed on the industries of the prison. He is allowed to provide himself with books, newspapers or other means of occupation and is allowed a visit from his friends and to receive and send a letter once a week. The number of persons placed in the first division in recent years is very small and shows a tendency to diminish as the following figures prove :—

	Males.	Females.	Total.
1911-12	35	..	35
1912-13	37	1	38
1913-14	18	..	18
1914-15	15	1	16
1915-16	8	5	13
1916-17	7	5	12

Offences of offenders in the first division.

125. It will throw further light on the use made of this division to state the offences for which these offenders of the first division had been convicted, so far as information is available.

Offences.	1911-12.	1912-13.	1913-14.
Against the Elementary Education Acts	34	32	15
Against the Vaccination Acts	1	4	1
Against the Highway Act	..	..	1
Against the law relating to the Territorial Forces	..	1	..
In relation to dogs	..	1	1
Total	35	38	18

In subsequent years information regarding the offences for which first division offenders were convicted is not available in the returns, but the facts above stated are sufficient to show that the first division has been used entirely for offences against what would be termed in India special laws, though there is nothing in the Act which directs such restriction. In the years above noticed, not a single person was admitted into any prison in England and Wales who had been sentenced to the first division for an offence that would fall within the Indian Penal Code. The offences for which they were sentenced were more of a civil than of a criminal nature, and from the reference in the English Prison

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Act to civil debtors it appears that imprisonment in the first division may be most nearly equated with the class known as civil prisoners in the Indian prison system.

Offenders in the second division.

126. An offender of the second division is also, as far as possible, kept apart from other classes of prisoners, but otherwise he has few special privileges. He, like offenders of the first division who do not maintain themselves, receives the diet prescribed for labouring prisoners during the first four months of their sentence. He is not permitted to supply his own food. He has to wear prison clothing, but it is of a different colour from that worn by other classes of prisoners. He is required to work, but the work is to be "of an industrial or manufacturing nature." He has to make his own bed and sweep his own room and keep his furniture clean. He is allowed an interview and to write and receive a letter once a month. Certain further concessions have been granted to persons, whose previous character has been good, convicted of offences not involving dishonesty, cruelty, indecency or serious violence, and not sentenced to hard labour. The number of persons sentenced in the second division during the years 1911-12 to 1916-17 has been as follows :—

	Males.	Females.	Total
1911-12	827	401	1,228
1912-13	869	246	1,115
1913-14	915	253	1,168
1914-15	1,162	323	1,485
1915-16	866	413	1,279
1916-17	856	501	1,357

Offences for which person are placed in the second division.

127. In the following table the offences for which second division offenders were convicted are summarised, and for purposes of comparison the total admissions under each head in the last year of the series are also given :—

	Second division offenders			All offenders
	1911-12.	1912-13.	1913-14.	1913-14.
Larceny, embezzlement and detaining	533	587	685	14,885
Receiving stolen goods	8	18	20	297
Indecent assaults	11	22	22	439
Other assaults	40	61	48	7,626
Indecent exposure	11	14	17	1,113
Malicious damage	139	36	20	1,975
Education Acts	137	164	135	1,241
Drunkenness	106	71	77	51,851
Police regulations	96	21	32	8,661
Vagrancy Acts	19	19	18	19,272
Poor law	15	13	6	4,315
Other offences under special Acts	113	89	88	16,956
Total	1,228	1,115	1,168	128,631

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These figures give an approximately correct impression of the part played by the second division in the English prison system. It may roughly be said that one per cent. of the persons admitted into local prisons are placed in the second division, and of this one per cent. about one half are convicted under special laws, the other half under a few clauses of what would in India be called the Penal Code, *viz.*, assaults, indecent acts, mischief, receiving stolen goods, theft, embezzlement and cheating. The second division may be said to be generally on a par with simiple imprisonment in India, but with the exception of persons granted the further concessions referred to in paragraph 126 above, the prisoner in the second division is required to wear prison clothing and submit to labour, while the prisoner sentenced to simple imprisonment is exempt from both.

Existing rules regarding simple imprisonment.

128. The Indian Penal Code which divides imprisonment into two kinds, rigorous and simple, contains no definition of what is meant by simple imprisonment, but rules regulating its infliction occur in the Prison Manuals of all Provinces. These rules generally provide that simple imprisonment prisoners shall be allowed to wear their own clothes, shall not be required to labour and shall receive a less liberal diet than those undergoing rigorous imprisonment; but if any prisoner sentenced to simple imprisonment voluntarily works to the satisfaction of the superintendent, he shall be allowed the scale of diet provided for convicts sentenced to labour. Simple imprisonment prisoners are also required to clean their own wards, wash their own clothes and keep their clothing and bedding neat, but they are not to be required to perform any duties of a degrading character. They are generally kept in a separate part of the jail and are not allowed to enter those parts of the jail which are reserved for other classes of prisoners. The number of persons admitted into Indian jails under sentence of simple imprisonment in comparison with the total admissions of convicted prisoners in recent years is as follows:—

Year.	Total admissions of convicted prisoners.	Admissions under sentence of simple imprisonment.
1916	173,441	9,560
1917	160,556	9,135
1918	166,303	8,213

Bad effects of existing rules.

129. It will be observed from these figures that the number of persons annually sentenced to simple imprisonment in India is more than seven times as great as the number sentenced to imprisonment in the second division in England and Wales, though the total admissions to Indian jails only exceed the total admissions to local prisons in England and Wales by 25 per cent. As already noticed, the prisoner under sentence of simple imprisonment is not required to

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labour, and though section 36 of the Prisons Act, 1894, requires the superintendent of the jail to make provision for the employment, so long as they so desire, of simple imprisonment prisoners, no such prisoner can be forced to work and, as a matter of fact, very few voluntarily do any work. The consequence is that they mostly spend the whole of their time in prison in entire idleness. The presence of a number of idle prisoners in the jail is unfavourable to jail discipline, and many witnesses spoke of the injurious effects of idleness on prisoners sentenced to simple imprisonment. As an experienced Indian witness said, simple imprisonment does no moral or physical good to the prisoner and should be reduced to a minimum.

Proposed creation of two kinds of simple imprisonment.

130. We accordingly recommend that by an amendment of section 53 of the Indian Penal Code, simple imprisonment should be declared to be of two kinds, namely, (*a*) without liability to labour and (*b*) with liability to light labour. All simple imprisonment would be of the (*b*) class unless a court, not being of a lower grade than that of a magistrate of the first class, may otherwise direct. If a second or third class magistrate should desire to sentence a prisoner to simple imprisonment of class (*a*), he should submit his proceedings to the district magistrate or sub-divisional magistrate to whom he is subordinate, in accordance with the provisions of section 349 of the Code of Criminal Procedure. We think that in all cases the provision of employment for these prisoners would be desirable, as is the case with second division prisoners in England, but there occur occasionally in India special cases in which the enforcement of any labour would involve difficulties. For such cases the retention of simple imprisonment of the (*a*) kind seems to be unavoidable but we think that it should be sparingly resorted to. This will, we think, be achieved by restricting the power to award this kind of imprisonment to courts not below the grade of a magistrate of the first class. Such prisoners, unless they elect to work, would receive non-labouring diet, as at present, while those sentenced to simple imprisonment of the (*b*) kind would be given the labouring diet appropriate under the scales in force in the Province, but would otherwise be treated in accordance with the existing rules regulating simple imprisonment. They would be entitled to remission like other labouring prisoners, while those sentenced to simple imprisonment of the (*a*) kind would only be given remission if they voluntarily laboured as provided in rule 4 (2) of the rules regulating the Remission System [Appendix I of Home Department Resolution, No. 161-172 (Jails), dated the 25th June 1908]. Prisoners sentenced to simple imprisonment of the (*b*) kind would thus constitute a new class, intermediate between rigorous and simple imprisonment, but approximating to the latter. We would add that, in the case of both forms of simple imprisonment, permission to possess and use books supplied at the cost of the prisoner should be freely granted in addition to the use of the books in the prison library. We consider that no person guilty of serious crime should be sentenced to simple imprisonment and therefore it is unnecessary to provide for persons under sentence of simple imprisonment being brought within the scope of the Star classification described in Section II of this Chapter. We may observe that clause 5 of rule 826 of the

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Punjab Jail Manual, which requires a prisoner undergoing simple imprisonment, who elects to labour, to wear the prison uniform, is unnecessary and should be cancelled. If the recommendation made in this paragraph is accepted, an amendment of section 36 of the Prisons Act, 1894, will be necessary.

Proposals regarding special treatment of well-to-do criminals.

131. We found that there was a considerable body of opinion, especially among non-official witnesses, in favour of according special treatment in prison to persons of good social status. In some cases it was proposed to limit such special treatment to persons of education and standing who had committed offences supposed to involve no moral turpitude. A few witnesses, however, went further and advocated special treatment in all cases for the well-to-do and the educated, one witness candidly avowing the opinion that all prisoners should be treated according to their station in life. We do not think that special treatment should be based on these grounds alone. We think that education and good position are generally an aggravating circumstance in regard to crime, rather than an excuse. It is true that a sentence of imprisonment often involves much greater disgrace and discomfort in the case of a member of the leisured classes than in the case of a manual labourer who is accustomed to hard fare and hard work. So long as this discomfort does not affect the health of the prisoner, we think that it must be regarded as the penalty which is due to those who, in spite of their advantages of station, fall into crime. It is not, however, desirable that these consequences should go farther and therefore we recommend the inclusion in the Jail Manuals of all Provinces of a rule on the lines of rule 254 of the Bombay Jail Manual which runs as follows :—

"254. Whenever the medical officer shall have reason to believe that either the mind or the body of a prisoner is likely to be injuriously affected by the discipline or treatment observed in the prison he shall, after careful scrutiny (as convicts are prone to feign insanity), report the case in writing to the superintendent, accompanied by such suggestions as he may think the case requires. The superintendent shall thereupon in regard to such prisoner alter or suspend the discipline, and regulate the prisoner's work accordingly."

Under the powers conferred by this rule it will be possible, whenever in the opinion of the medical officer the usual diet scale in force in a prison or the usual scale of clothing or bedding are so unsuitable to a prisoner as injuriously to affect or to be likely to affect his health, to recommend the issue of such special dietary or such special clothing or bedding as may seem best suited to meet the needs of the case. Similarly in regard to labour, if any form of labour is found to be injuriously affecting a prisoner it should be changed. We think that, with the addition of this provision, the chance of undue hardship in the case of the prisoner of good social status will be adequately safeguarded.

Proposals regarding special treatment of political criminals.

132. A somewhat similar proposal to that considered in the last paragraph was brought forward by several witnesses. This was to the effect that special treat-

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ment, which would extend to labour, diet, clothing and accommodation, should be given to all political offenders, who should, it was proposed, be included in a special division. It seemed to be thought that as persons who commit certain political offences, such as those punishable under sections 124A or 153A of the Indian Penal Code are generally not inspired by the same motives as those which actuate ordinary criminals, therefore all persons who commit offences from political motives are deserving of special consideration and leniency. While it is easy to see the sentiment which underlies this proposal, there appear to us to be many great and serious objections to its acceptance. In the first place we think that the suggestion that the law should expressly recognise motive, whether political or otherwise, as an ingredient in crime is a step very much to be deprecated. It is no doubt true that every court, in estimating the degree of guilt and the need for punishment, does take motive into account; but that is done with reference to the special circumstances of each individual case. It would be a very different thing to lay down by legislative or executive enactment that a particular motive, for example, a political motive, should always differentiate a crime and mark it out for more lenient treatment. Such a declaration would, it seems to us, be tantamount to an encouragement to crime of that description. A further objection to the proposal is the extreme difficulty of ascertaining true motive and the extreme ease with which political motive can be alleged as an excuse for ordinary crime. Experience has proved that even where crime may have an underlying political object, private revenge or greed is far from being always absent. Mixed motives occur in this, as in many other matters, and it would be very dangerous to furnish a criminal with the ready-made excuse that he committed his offence from a political motive. Lastly, it is quite impossible from the point of view of the public safety to accept the view that because a theft, a dacoity or a murder is committed from political motives or in the furtherance of a political movement, such crimes become less heinous or less deserving of condign punishment. Crime remains crime, whatever the motive of the criminal may be. The loss to the community through the destruction of life or the dishonest seizure of property is none the less because the criminal intends to use the property for the purposes of a political propaganda, or because the person murdered was opposed to the political party to which the murderer belongs. On this subject Garofalo in his "Criminology" (1914) has some apposite remarks :—"In political crimes," he says, "such as attacks upon the life of the head of the State or other public officers, the use of bombs and dynamite to further revolutionary propaganda and similar acts of violence, it is of little moment what the political object may be, if the sentiment of humanity is wounded. Has there been killing or an attempt to kill, not in the course of war, or in the exercise of lawful self-defence? If so, the author, by that fact alone, is a criminal.....In such cases the crime exists independently of the passion which has provoked it. It exists because of the wilful intent to destroy human lives." We feel sure that the persons who put forward this proposal had not considered with sufficient care the implications it contains and the dangerous consequences to which it might lead. Moreover, the additional form of imprisonment suggested in paragraph 130 above seems to us to meet all possible needs.

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ANNEXURE TO CHAPTER VII.

TABLE SHOWING THE PROPORTION OF HABITUALS IN THE JAIL POPULATION ON 1ST JANUARY 1920.

(*Referred to in paragraph 98*).

Province.	Total Jail population.	Of total jail population, number classified—	
		As habitual offenders.	Under Chapter VIII of Code of Criminal Procedure.
Assam	2,476	391	457
Bengal	15,026	4,316	3,337
Bihar and Orissa	9,188	2,365	1,021
Bombay	11,718	2,263	1,080
Burma	13,489	5,609	462
Central Provinces	4,743	1,595	197
Delhi	464	184	15
Madras	11,354	3,853	886
North West Frontier Province	2,515	123	38
Punjab	14,837	2,624	179
United Provinces	25,770	9,778	5,045
Total	111,580	33,191	12,717

CHAPTER VIII.

SEPARATION AT NIGHT.

Section I.—Introductory.

Introductory remarks.

133. In the last Chapter we have examined the question of the classification of convicts, and have proposed that the worst class, namely, the habitual offender, shall be segregated as far as possible from other prisoners and that among the remainder the best shall, by means of the Star classification, be kept apart from the intermediate class of offender. The question next arises as to the degree of association which should be permitted among these three classes *inter se*, especially at night. On this subject we were unable to agree, and the three views which were represented on the Committee will be separately stated below in Sections II, III and IV; but we will first notice those points on which our opinion is unanimous.

Cubicles in association wards.

134. One method of securing the separation of each prisoner at night is the provision of cubicles in the association ward or barrack. These cubicles, which we saw in use in certain jails, mostly in the United Provinces and the Punjab, generally consist of a sort of iron-barred cage, raised about twelve inches above the floor, and so arranged that no cage touches any other cage. The necessary utensils for use at night are placed underneath each cage and are reached through a trap-door opening in the floor of the cage. Another form of cubicle consists of an iron-wired cage standing on the floor of the ward. Each prisoner is locked into his own cage at night, and it is claimed for this method that though it, of course, does not preclude conversation, it prevents all contact and such offences as can otherwise arise in an association barrack, such as card playing, unnatural crime and the like.

Reasons for disapproval of cubicles.

135. We are unanimously of opinion that the objections to the use of these cubicles outweigh the advantages claimed for them. The presence in a ward of a series of iron-barred cages seriously interferes with ventilation and the free perflation of air. This is specially objectionable when, as is unavoidable under the cubicle or cage system, every man is supplied with separate necessary utensils for use at night. In the cold weather, the raised cages are also very cold, as the man, being off the ground and having no mattress, is exposed to

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draught from below as well as above. Experience, moreover, proves that, in spite of all care and precautions, the cubicle unavoidably gives cover to bugs, dust and dirt of all kinds. It is practically impossible to maintain cleanliness in a ward which is filled with cages. There is not free space all round them but merely a passage down the middle and between the two rows of cages. On the other hand, though they prevent unnatural vice, they have little effect in checking contaminating conversation and therefore do not achieve the object desired by those who advocate the separation of prisoners at night. We accordingly recommend that these cubicles and cages, wherever they exist, should be removed. This has already been done in some Provinces which formerly employed this device.

Increased number of cells required in all Provinces.

136. The choice then remains between the open association ward with accommodation for from twenty to fifty prisoners and the separate room or cell in which each prisoner sleeps by himself. Even here there are some aspects of the matter on which we agree. Thus; it is generally allowed that prisoners suspected of sodomy and other bad characters should be required to sleep in cells. We also agree in thinking that any prisoner who elects or prefers to sleep in a cell should be allowed to do so. There are other classes of cases in which it is obviously desirable to have the means of entire separation, as, for instance, prisoners who are concerned in pending trials and whom the magistracy wish kept apart, and all under-trial prisoners. For all these cases a sufficient number of cells is necessary and we are agreed that in most Provinces the existing supply of cells is insufficient and should be increased so as to provide 25 or 30 per cent. of cells in all jails, both for males and females.

Divergent opinion regarding separation for all prisoners at night.

137. Beyond this recommendation we have not been able to secure unanimity, and the Committee's opinions fall into three groups, namely, first, those* who think that, after the above amount of cellular accommodation has been provided, the rest of the prisoners should be allowed to sleep in association wards at night; second, those† who regard the provision of separate sleeping accommodation for every prisoner at night as essential; and third, one Member,‡ who, while he considers that every habitual and every short-term prisoner, whether habitual or non-habitual, should sleep separately at night, holds that long-term prisoners of the non-habitual class should be in association. These various views will now be set forth in the words of the Members who respectively hold them.

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* Colonel Jackson, Sir Walter Buchanan and D. M. Dorai Rajah of Pudukottah.

† Sir Alexander Cardew and Mr. Mitchell-Innes.

‡ Sir James DuBoulay.

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Section II.—The Opinion of the Members§ in favour of the Principle of Association at Night.

Reforms already advocated.

138. In other Chapters of this Report will be found recommendations involving the provision of reformatory institutions and juvenile jails for adolescent criminals, of special jails for habituals, of institutions for the mentally defective criminal, and of cellular accommodation for all under-trial prisoners. We have further brought to notice the urgent necessity of relieving the overcrowding which exists in some Provinces, a need which will be accentuated if the recommendations made in Chapter XXI with regard to transportation are accepted. We recognise the considerable expenditure in building which these recommendations will involve, but it is, we consider, a necessary and justifiable expenditure. Turning to even more vital matters in prison administration : the separation of adolescents from adults, and the segregation of habituals have been insisted on ; and a very careful classification of ordinary adult prisoners (Star, others, simple imprisonment A and B) has been advocated. We have advised a very large increase in the prison staff, and such enhancement of the pay of that staff as will afford a reasonable guarantee that they will be capable of exercising a good influence on the prisoners committed to their charge. We have emphasised the importance of a full day's task in labour of a reformatory and interesting character. The introduction of more liberal remission, the prospective revision of long sentences dependent on evidence of reformation and good conduct, the possibilities of earning gratuities, increased privileges as to books, letters and interviews will together form an enormous inducement to good conduct, ready obedience and self-control. Furthermore, the idle vacant hours in the evening will be occupied by reading, education and simple games.

Object and effect of these reforms.

139. The whole object of all these recommendations is to place the prisoner under proper reformatory restraint, discipline and guidance in order to teach him self-control and restore to him his self-respect. Under such conditions it may, we think, be reasonably anticipated that the normal prisoner will have a day fully occupied by labour and instruction under a strict discipline, tempered by the alleviations mentioned, which will remove to a great extent monotony and deadening routine. During the day the prisoner will have had little time for evil thoughts or undesirable imagery, and, having been allowed reasonable use of his tongue during permitted hours, he will, in our opinion, have small inclination for conversation, plotting or degrading practices when the hour for sleep comes to him—a healthily tired man.

Provision of cells for the whole prison population not necessary.

140. Believing, as we do, that these measures contain the pith of the matter, their early introduction is essential ; it naturally follows that we do not

§ Colonel Jackson, Sir Walter Buchanan and D. M. Dorai Rajah of Pudukottah.

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wish to see them—the real factors in reform—delayed or interfered with by expenditure on unnecessary building. For we do not consider that it is necessary or desirable to confine in cells at night all prisoners during the whole term of their sentence and are of opinion that the provision of cells for from 25 to 30 per cent. of the population of a jail will be sufficient. Apart, however, from the expenditure entailed by a cellular system we object to it on other and, to our mind, weighty grounds.

Original reasons for a cellular system.

141. The cellular system is due to the reaction against the promiscuous mixing *in idleness* and without discipline of all prisoners, young and old, hardened criminals and first offenders, and even males and females, which existed in the 18th century and in some countries even in the earlier years of the 19th century.

Cells possess a merely negative virtue.

142. The virtue claimed for the cellular system is a negative one. It is supposed to prevent—if carried out in its *entirety*—contamination of the first offender or better prisoner by the habitual criminal or more evil-minded delinquent. As M. deTocqueville said : " Si le système cellulaire n' améliore pas toujours, il ne rend pas, du moins, plus mauvais." At the Congress in 1895 M. Leveille said with much truth : " Elle moralise par l' ennui."

Cellular system at Prison Congress of 1900.

143. The virtue of cells as a method of reformation and prevention of contamination has become for many an essential dogma of penology. To quote Sir Evelyn Ruggles-Brise : " Any one desirous of retaining his reputation for orthodoxy on questions of penal science must not venture to call in question the virtue of the cellular system." Penologists who believe this logically assent to the theory that the absolute segregation of one prisoner from another for the whole term of his sentence is advantageous. Consequently we find that the International Prison Congress in 1900 asserted : " It results from the experience of the Belgian system that cellular imprisonment, when prolonged for ten years and over, judicious care being taken to provide against the strain in any case being excessive (*i.e.*, by transfer, medical examination, etc.) has not a more unfavourable effect on the bodily and mental health of prisoners than any other system of imprisonment." It may be explained that the system so approved of consists in the absolute separation of all prisoners from each other, even in chapel and at exercise, and the prisoner puts on a mask before leaving his cell. That such a system is either humane or reformatory : " Credat Judaeus Apella."

Actual result of a thorough cellular system.

144. On the contrary it would seem almost of necessity to result in embittering a criminal and in rendering him less fit to resume his place in the ranks of honest men. A prisoner would emerge from a sentence carried out under such

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conditions devitalised by cellular confinement, depressed by silence and demoralised by monotony. It was admitted that, with this thorough method of preventing contamination, crime was increasing in Belgium.

Properly regulated association not a source of contamination.

145. It has been said of the cellular system : "Its value cannot be exaggerated as a prophylactic against the evil resulting from promiscuity and unregulated association." (Sir Evelyn Ruggles-Brise : Report to Secretary of State, Home Department, Proceedings of the 5th and 6th International Penitentiary Congresses 1901, page 70). This Committee, however, do not contemplate promiscuity and unregulated association in Indian jails, but very much the reverse. Promiscuous and unregulated association is very strongly deprecated by us, and the true method of preventing contamination is by classification and selection of prisoners combined, if possible, with a psychological and psychiatrical examination of each criminal. The Committee have recommended a very elaborate classification and we do not believe that it is necessary or desirable, in addition, to confine all prisoners in cells from lock-up to unlocking. We do not consider that the ordinary Indian prisoner is particularly addicted to lewd conversation and when, in addition, prisoners are carefully classed out, the risk of moral contamination is exceedingly small. Moreover, the ordinary Indian prisoner is by custom and habit sociable and averse to solitude. To shut up every prisoner in a cell for sixteen hours, or for twelve hours, for the whole of the sentence to be served, on the ground that some may be bad and may infect the others, is akin to the action of a huntsman who, discovering a couple of mangy hounds in his pack, stops his hunting and proceeds to put every hound in a separate enclosure instead of segregating the infected animals and curing their disease.

A fair proportion of cells necessary.

146. Every jail must have a fair proportion of cells for the separation of certain depraved or refractory prisoners and for the better class prisoner, if he wishes to go to a cell ; these cells should be of a much better type than those existing and will necessarily be expensive to build. It does not, however, follow that because a rough average of 25 per cent. of prisoners may have, for various reasons, to be kept separate there is any need to treat all prisoners in a similar way.

Methods on which prison discipline should be based.

147. The general jail discipline methods should not be based on what is necessary for the most insubordinate and evil-minded prisoners—they can be dealt with separately—but on what is necessary to maintain a reasonable standard of discipline and exaction of labour from the average fairly conducted prisoner. Maconachie found Norfolk Island a hell and left it an orderly, well-regulated community. To effect this marvellous change no recourse was had to cells ; he relied on a firm even-handed justice, the inspiration of hope and his own influence—that of a good and earnest man. It is by action on these ideas that we shall reform and improve our prisoners : we shall never do so by putting our

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faith in bricks and mortar. A man who had had much practical experience of a cellular system wrote :—" Governors will shape their views in accordance with the trouble or facility which separate confinement affords them in maintaining discipline in a prison, rather than from its observed effect upon the health and moral character of their prisoners : while prison chaplains value this kind of treatment solely for the opportunities which it affords for imparting religious instruction " (' *Leaves from a Prison Diary* ' by M. Davitt).

Cellular confinement for twelve hours a day objectionable.

148. We consider that to shut up a prisoner in a cell from 6 o'clock every evening till 6 o'clock the next morning for years together is an unnatural proceeding. Undesirable imagery fills the mental vacuity of the prisoner ; and if there is risk of unnatural vice in an association sleeping barrack—a risk in our opinion grossly exaggerated as likely to exist among selected prisoners or in properly lighted, properly patrolled wards—there is a much greater risk of self-abuse in the cell. The objection to cells would largely disappear if prisoners were not locked up in them till 9 P.M., but even then, as we point out further on, in this country a difficulty would still remain.

Provision of the essential education and recreation in a cellular prison very difficult.

149. It is in our opinion most important that the idle time between 5-30 P.M. and the hour of sleep should be fully occupied by education, reading and simple indoor games, and we do not see how this idea can be carried out in a prison in India run on cellular lines. We cannot help thinking that it is significant that in the case of prisoners undergoing preventive detention at Camp Hill (Isle of Wight) association at meals is allowed to the ordinary and special grades and in the evening association, with chess, draughts and dominoes, to the ordinary grade prisoners who have earned a second certificate and to the special grade. We heard of no evil results (but the contrary) as ensuing from this innovation on the usual system followed in English prisons.

Climatic objections to cells in India.

150. At the International Congress held at Buda-Pesth in 1905 M. Altamura, Governor, Cellular Prison, Rome, said, speaking on extramural labour : " The reasons that in Italy, as in other countries, inclined public opinion in favour of this system of labour were due, apart from the preponderance of the agrarian element in prisons, to the better sanitary conditions under which such work could be conducted and to the absence of such diseases as tuberculosis, scrofula and anaemia, which experience, especially in the South, has shown to be so largely the concomitant of cellular confinement." Though, therefore, penologists in 1900 decided to their own satisfaction that a rigorous cellular system in Belgium did no harm to prisoners, a different tale is told under the sunnier skies of Italy. We are emphatically of opinion that to confine prisoners during the night for prolonged periods in cells in the Punjab, Sind (except Karachi) and in many other places in India during the hot weather is absolutely wrong. No man can begin his work in the morning in a proper frame of mind and body after a bad night, and it would not be a case of one but a series of " dreadful

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nights." Nor can we conceive of any cell devised to meet these climatic conditions that would not violate the theory of cells by allowing the adjoining inmates to talk freely. It has to be borne in mind that, except in the Madras Presidency (40 per cent. cells on total capacity, varying from 7 per cent. to 88 per cent.) and two or three other isolated instances, prisoners have not in India been confined in cells at night for prolonged periods.

Witnesses' reasons for preferring cellular confinement:

(*i*) It is a more severe form of punishment.

151. The witnesses appearing before the Committee who advocated cellular jails for all prisoners or for habituals alone based their opinion on three theoretical grounds. The first of these was that cells were a much severer and therefore a more deterrent and punitive form of imprisonment than association wards. We at once grant the severity of cellular confinement carried out for the whole term of a prisoner's sentence ; but to recommend the adoption of cells with a motive of deterrence and severity would be, we conceive, contrary to the spirit and trend of the other recommendations made by the Committee.

(*ii*) It prevents contamination.

152. The next ground was that of contamination ; but witnesses all spoke of existing conditions in Indian jails where adolescents (over the age of eighteen) and adult prisoners are confined together, and the separation of the habitual from the first offender is imperfectly carried out. Owing to the other recommendations of the Committee we trust that few adolescents will in future find their way into ordinary prisons. The Committee have also recommended separate jails for the worst class of habitual, and a very careful—almost meticulous—division by classes of prisoners in ordinary jails. If these recommendations are carried out we believe that there will be very little risk of contamination. We would also point out that the Committee has accepted the principles of association at work and reasonable conversation, and we recommend occupation in reading, education, and simple indoor games from 5-30 to the hour of sleep. We feel that the small and, to our mind, very problematical advantage to be gained by separating all prisoners from each other for 12 hours, during 9 of which they would be asleep, would be totally incommensurate with the enormous cost involved, even if we ignored the other disadvantages inherent in a cellular system.

(*iii*) It prevents unnatural vice.

153. The third ground for the adoption of the cellular system is the risk of unnatural vice. We stipulate for the provision of properly patrolled wards, not containing more than forty prisoners, and for the segregation of all prisoners suspected of this vice or of depraved character. If these conditions are carried out, we hold that the risk of immorality in sleeping barracks is infinitesimal ; for we absolutely refuse to believe that the ordinary Indian prisoner is so depraved in mind and so lost to shame as either to commit sodomy or to tolerate its commission under the eyes of the patrol and in the presence of other prisoners." Furthermore, hardly a witness averred that unnatural vice was actually practised in the sleeping wards. It occurs in latrines, behind lumber

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in worksheds, in the garden behind bushes, in the day and during working hours. The general evidence as to the prevalence of unnatural vice in Indian prisons is conflicting, unconvincing and in the main inconclusive, being largely based on surmise. One witness (Appendix IX to Volume II, Minutes of Evidence) has dealt at length with this subject. Frequently, when this question has been alluded to by witnesses, there has been in our opinion a tendency to exaggeration due, doubtless, to a natural horror of the vice. This witness states that 80 per cent. of all candidates for convict overseerships in the jail under his control were catamites; 50 per cent. of all the convicted population if systematically examined, "would be found to be passive agents of this degrading vice"; that "it would be reasonable to estimate that at least 30 per cent. of the men take an active part in the crime"; that "as the average convict population of this jail is about 1,100, it follows that over 800 criminals are either sodomites or catamites or both." Such widespread vice in a prison connotes similar general immorality among the free population. Apparently the witness recognised this for he writes:—"Unnatural crime is regarded among Indians with a toleration that is hardly conceivable and is perhaps only paralleled by the levity with which it was regarded by the ancient Greeks. Amongst the civil population it is common, amongst candidates for enlistment in the warder guard I had to reject several for this reason.....If it be true, as I believe, that this vice is regarded by Indians as on a par with female prostitution." These statements as regards prisoners are based apparently on "anatomical characteristics," as regards the free population largely on opinion. We consider these allegations against both prisoners and free population to be incredible. In any case the witness refers to "the class from which the majority of criminals is furnished, the impecunious submerged tenth, born in the slums and dragged up in the gutter." Now this description, we contend, is in no way applicable to the great majority of Indian prisoners; it can only be roughly descriptive of admissions into prisons which receive the criminals of a large city. If this is the class the witness dealt with, any generalisations based on such material are vitiated to such a degree as to be worthless as regards their application to the general prison population of India. Strongly, however, as this witness puts his case he does not recommend cells. It is true he does so in Appendix IX, written in 1905, but he says: "I do not now agree with all the opinions I express therein, but I adhere absolutely to facts." His latest considered opinion, question 440 (xxv), is as follows:—"I am not prepared to enter into the merits or demerits of the separate system. I simply condemn it;" again, (question 452): "Personally I would retain association wards at night for the great majority, but then I would adequately safeguard the moral side;" and in question 453: "I consider the English practice in respect to separation of prisoners to be inhumane;" question 973 may also be consulted. As far as we can judge, what this witness considers to be essential to stop such evil practices—if existing—is careful classification of prisoners, well lighted wards, and proper supervision by paid warders. He lays great stress on the separation of the mature from the immature; this can be done by a medical examination with special attention to psychological and psychiatrical aspects; indeed this is the only method of efficiently doing so. The safeguards he demands are exactly those which we have recommended as necessary.

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The theory that prisoners plot future crimes in sleeping barracks.

154. The theory, advanced by some witnesses, that prisoners plot future crimes in association sleeping-wards is hardly worth considering, when we reflect that in associated labour and at meals they would have some twelve hours to do so if they wished. Besides, we propose to occupy their minds during the idle hours before sleep, and to provide adequate patrolling of barracks.

Cells not necessary for all habituals.

155. Neither do we believe that cells are necessary for all the prisoners sent to the separate jails which the Committee recommend for habituals. Many habituals become so because they lack self-control and are, we believe, frequently mentally or physically defective or both. Under control and guidance in a prison these men are as a rule quite amenable to discipline and, when suitably employed, work satisfactorily ; but their mental conditions are not improved by enforced seclusion in cells and they are infinitely more advantageously situated for their own benefit in a well ventilated, well lighted ward under constant supervision.

Theory that cellular confinement is good for every prisoner.

156. In fact, to lay down that confinement in a cell must be good for every prisoner without exception is an attempt to enforce an Act of Uniformity for prison life which would, we believe, be as pernicious as that Act was in the social life of a State ; besides being in absolute contradiction to the trend of modern penology (the treatment of prisoners as individuals and not as a herd) unless indeed it is understood that individual treatment of prisoners consists in placing each individual in an individual cell.

Is the cellular system universally accepted?

157. If, however, the cellular system stood firm as an accepted penological principle all over the world, we could understand a recommendation to the Government of India to spend crores of rupees in building cells. The principle of cellular confinement, however, in our opinion, is not so accepted and is actually losing ground.

England.

(*i*) In England, where it was first carried out in its entirety, prisoners are now practically only confined in cells during meal times and from lock-up to the morning ; the preliminary period of complete segregation in cells has been steadily whittled down in the course of years from nine months to one month.

America.

(*ii*) In America association wards for night exist at Occoquan (District of Columbia), Greencastle (Indiana), Fort Leavenworth (Kansas), New York

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City Reformatory (New York), Wende (Ohio), County State Farm, Putnamville (Indiana), Indiana State Prison (Michigan City), Bilibid Prison (Manila), Guelph (Ontario, Canada) ; and the new Sing Sing Prison is to have day rooms and dormitories with lockers. At Joliet (Illinois) we saw a new cell block unique in its design and excellent in principle, but no more are to be built at Joliet ; the rest of the prison, which is being constructed, is to be on the association system. Most of the above institutions are of recent construction. Sir Evelyn Ruggles-Brise, in his summary of the proceedings of the Prison Congress held at Washington, so far back as 1910, writes : "The cellular system is seldom mentioned in America to-day. Its principles are not even observed in the most up-to-date State reformatory, though a nominal homage is given to it in virtue of its history and tradition. Its negative value as a protest against promiscuous association has yielded to what is conceived to be a greater and higher purpose of punishment, *viz.*, the formation and reformation of character which shall fit a criminal man to become an asset in the civil and industrial life of the community."

Further objections to cells.

158. The negative virtue of the cell will elicit no positive virtue in its inhabitant. If a prisoner is to be trained to resist temptation, to correct his behaviour and to be fitted for a free life, it is difficult to see how confinement in a cell is likely to strengthen and invigorate his moral fibre. Indeed, in our opinion, doing no positive good, a general cellular system has no merit beyond that which commends champagne and furs to the war profiteer—it is expensive. The theory of the necessity of cells negatives the idea of intermediate jails or agricultural penal settlements and the additional freedom connoted by these forms of penal institution. Spend a fraction of the sum that construction of cellular jails will necessitate on securing good and suitable prison officers and then indeed the money will be well spent. "The core of the whole matter is the influence of man on man—the influence of officials on prisoners, the influence of prisoners on each other. And some day will be found the economy of paying salaries sufficient to get better people officially to influence towards good." ("*The Individual Delinquent*"—Dr. Wm. Healy).

Experience of association wards in India.

159. In India endeavours have been made in the past to separate habituals from first offenders, often, it is admitted, imperfectly owing to overcrowding and constructional faults. Still we do not consider that there is any evidence, beyond surmise, that the Indian system of association and reasonable conversation has been attended with any greater degree of contamination than that occurring in prisons run on the cellular systems. It is difficult to present figures for comparison but we submit that the statistics subjoined, showing the percentage of reconvictions found among admissions to prison, are relevant.

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INDIA :—*Statistics regarding convictions of Males during the year 1918.*

Province.	Total admissions.	Number with previous convictions.			Percentage with previous convictions.		
		None.	One.	More than one.	None.	One.	More than one.
Madras	23,180	20,902	1,597	681	90.17	6.89	2.94
Bombay	17,360	14,416	1,207	1,737	83.04	6.95	10.01
„ , Common Prison, Bombay*	3,693	2,809	327	557	76.06	8.85	15.09
Bengal	27,882	24,930	1,539	1,413	89.41	5.52	5.07
„ , District and Central Jail, Alipore.*	1,473	1,214	100	159	82.42	6.79	10.79
Presidency District and Central Jail.*	4,184	3,339	303	542	79.81	7.24	12.95
United Provinces	33,318	27,786	2,645	2,887	83.40	7.94	8.66
The Punjab	15,497	14,269	812	416	92.08	5.24	2.68
„ , Lahore Central Jail*	1,136	981	101	54	86.36	8.89	4.75
Burma	16,244	11,268	2,171	2,805	69.31	13.36	17.33
„ Rangoon Jail*	2,986	2,121	382	483	71.03	12.79	16.18
Bihar and Orissa	14,268	13,020	625	623	91.25	4.38	4.39
Central Provinces	4,584	3,740	443	401	81.59	9.66	8.75
Assam	3,863	3,574	187	102	92.52	4.84	2.64
North-West Frontier Province	3,165	3,019	111	35	95.39	3.51	1.10

* Jails drawing their population from large cities ; inserted to show urban crime.

ENGLAND :—*Persons received under sentence of ordinary imprisonment (local) showing percentage who had been previously convicted, and who had not been previously convicted.*

Year.	Total number of prisoners received under sentence of imprisonment.		Percentage who had been previously convicted.		Percentage who had not previously been convicted.	
	M.	F.	M.	F.	M.	F.
1902-03	125,716	49,529	51.2	70.6	48.8	29.4
1903-04	138,271	50,638	50.5	71.4	49.5	28.6
1904-05	148,096	48,942	50.9	73.6	49.1	26.4
1905-06	146,709	47,366	52.3	75.1	47.7	24.9
1906-07	134,520	42,825	55.2	77.7	44.8	22.3
1907-08	134,519	40,910	54.8	75.0	45.2	25.0
1908-09	143,604	40,147	56.9	78.8	43.1	21.2
1909-10	140,154	38,415	57.0	77.1	43.0	22.9
1910-11	130,369	35,880	58.5	77.2	41.5	22.8
1911-12	123,178	34,371	59.0	76.8	41.0	23.2
1912-13	115,178	34,344	60.7	76.6	39.3	23.4

ENGLAND :—*Percentage of persons sentenced to penal servitude who had been previously convicted and sentenced to penal servitude or imprisonment.*

Year.	Number sentenced to penal servitude.		Percentage previously sentenced to imprisonment or penal servitude.		Number who had been previously sentenced to penal servitude.		Percentage previously sentenced to penal servitude.	
	M.	F.	M.	F.	M.	F.	M.	F.
1902-03	1,038	62	78.32	67.74	355	23	34.20	37.09
1903-04	965	51	81.35	76.47	320	17	33.16	33.33
1904-05	888	41	78.60	73.17	299	11	33.67	26.83
1905-06	977	42	85.06	60.48	345	11	35.31	26.19
1906-07	985	36	83.75	69.43	329	15	33.40	41.66
1907-08	1,132	41	83.75	82.92	419	11	37.01	26.83
1908-09	1,102	48	85.21	64.58	429	15	38.93	31.25
1909-10	1,068	40	88.39	72.50	416	12	38.95	30.00
1910-11	882	34	87.75	70.59	349	10	39.57	29.41
1911-12	819	44	85.10	61.36	353	11	43.10	25.00
1912-13	847	24	87.00	66.66	358	9	42.26	37.50

ENGLAND :—*Number of prisoners received into local prisons, under sentences of imprisonment, to detention in Borstal institutions, and penal servitude respectively, during the year ended 1914, and the number of previous convictions incurred by such prisoners, also the number who had not been previously convicted, (court-martial prisoners are excluded).*

		Sentence under present conviction.							
		Imprisonment.		Detention in Borstal Institutions.		Penal servitude.		Total.	
		M.	F.	M.	F.	M.	F.	M.	F.
Total number received on conviction		101,820	33,320	442	45	748	49	103,010	33,414
Number who had been previously convicted.	Once	15,435	3,855	135	18	31	4	15,601	3,877
	Twice	7,655	2,565	119	7	33	1	7,807	2,573
	Thrice	5,503	2,233	57	6	23	2	5,583	2,241
	Four times	4,002	1,919	18	1	47	3	4,067	1,923
	Five times	3,251	1,714	10	3	38	3	3,299	1,720
	Six to ten times	10,407	3,745	23	..	187	8	10,617	3,753
	Eleven to 20 times	9,382	3,795	3	..	195	6	9,580	3,801
	Above 20 times	8,313	6,446	..	..	97	7	8,410	6,453
	Total	63,948	26,272	365	35	651	34	64,964	26,341
Number believed not to have been previously convicted		37,872	7,048	77	10	97	15	38,046	7,073
Number who, when previously convicted, had received a sentence of penal servitude		1,739	120	..	..	304	10	2,043	130

NOTES.—The same prisoner convicted more than once in a year appears in a separate column foreach time convicted.

This Return includes 30 capital cases (26 males and 4 females) of whom 18 males were executed, and 12 (8 males and 4 females) had their sentences afterwards commuted to penal servitude.

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Disadvantages under which the Indian association system worked.

160. In comparing these figures it has to be remembered that of late years the methods used by the police for identifying old offenders in India have become infinitely more accurate; these methods are now being adopted in other countries. Furthermore, in India up to date, practically no one but the prison authorities did anything for the prisoners; in England, on the contrary, for years philanthropic and religious societies have aided and helped the prisoner on release. Even with this great advantage the comparison shows nothing in favour of a cellular system. The result will be more favourable for the Indian system when the classifications of prisoners recommended by this Committee are in force, when aid societies are assisting prisoners, when probation and adolescent reformatories are introduced and when the prison staff is adequately paid and capable of exercising reformatory influence.

Cellular system *versus* association system.

161. We find Dr. J. Devon, Commissioner of Scottish Prisons, writing : " In my opinion it is beyond dispute that our methods result in the making of criminals ; that in the great majority of cases imprisonment not only does no good but does positive and serious harm". (*The Criminal and the Community*). Can anything worse be said of the Indian system? It is plain that the virtues of a cellular system are indeed negative. Mr. Thomas Holmes writes as follows: "Why is it that a man's facial expression changes during a long detention? Why is it that his voice becomes hard and unnatural? Why is it that his eyes become shifty, cunning and wild? It is not because of hard work. ...It is the system that does it, the long continued soul-and-mind-destroying system." ("*London Police Courts.*") Two of us have seen thousands of Indian long-term prisoners released, and we do not recognise the above description as applicable to them. It is true, however, that the Indian prisoner lived with his fellow human beings, talked to them in reason, was promoted as a convict officer, was trusted and given responsibility, had the supervision and direction, under warders, of interesting work, and went out with a clear and steady eye and a natural voice. These conditions probably explain why the description of so keen an observer as Mr. Holme does not apply out here. An it is still further to prevent monotony that we recommend educational classes, reading, and simple games for the idle evening hours. Every such measure—if implying any association—is naturally abhorrent to the true believer in the orthodoxy of the cellular system; but we do not think that merely reading or working during evening hours in a cell will, in any way, supply what we desire. The mediæval hermit in a cell did not return to ordinary life (if he ever ventured to attempt such return) in any way better fitted by seclusion for the performance of his civic duties ; the modern criminal hermit is even less likely to return to the strain and stress of modern life the better equipped mentally or physically by the negative virtues of solitude.

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Section III.—The Opinion of the Members* in favour of the Principle of Separation at Night.

Separate sleeping accommodation at night, an essential principle.

162. We are unable to concur in the recommendation to the effect that in future jail construction 70 to 75 per cent. of the accommodation provided shall be on the association system. We think that it is an elementary principle of jail administration that every prisoner shall (so far as financial and climatic conditions allow) be given separate sleeping accommodation at night.

Distinction between separate sleeping accommodation at night and the cellular system.

163. It is perhaps first desirable to make it clear that in thus advocating separate sleeping accommodation at night, we do not support the cellular system as carried out in various countries, notably Belgium. There prisoners are locked up separately both by day and night for long periods which may extend to ten years or even longer. It is true that Belgian statistics show that the system has not proved deleterious to the mental and physical health of the prisoners, and it does possess the great merit and recommendation of preventing the contamination of one prisoner by another. It is claimed for the cellular system that if it does not make the prisoner better, at least it prevents him from being made worse by the concomitants of confinement; but we agree with those who think that the cellular system is open to other and weighty objections. Such prolonged isolation suspends the play of the human faculties, and has a deadening effect on the mind. It unfits a man to take part in the activities of life, and tends to produce in him an incapacity for initiative, a disinclination for exertion and a general mental and moral inertia. We therefore disapprove of the cellular system in principle and we notice that in practice the system has not succeeded in diminishing crime in those countries where it is in force.

British system of separate sleeping accommodation at night.

164. In Great Britain and in most British colonies a modification of the cellular system has been introduced. Under this modification every prisoner sleeps in a separate room, but he is not kept in his room by day, but is employed in association with other prisoners. Thus while the principle of protection from contamination is as far as possible observed, counteracting steps are taken to prevent the prisoner from being rendered unfit for return to active life. The British system is, like so many other British institutions, avowedly a compromise. It seeks to take a middle course between the extreme of complete isolation on the one hand and that of complete association on the other. It takes account of the obvious fact that men will talk more if locked up together with nothing to do at night in a dormitory, than they will while they are kept steadily at work under the supervision of a paid officer by day in a workshop. It forbids conversation at all times and, though it is admitted that in practice talking cannot

*Sir Alexander Cardew and Mr. Mitchell-Innes.

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always be prevented, the British system at least sees that prisoners do not spend the night in the interchange of reminiscences, criminal and otherwise. If it is said that such a compromise is illogical, we would reply that mere logic is a very bad guide for an administrator. In our judgment the British system is a successful combination of the principle of separation with security against injury to the prisoner's health. It can point triumphantly to the test of experience; for alone among nations whether European, American or Indian, Great Britain can show a great and unmistakable reduction in crime of all grades.

Separation at night required by law in some American States.

165. In the United States of America separation at night generally prevails. In a number of States the law requires that there shall be a separate room for each prisoner. Among such States are Arkansas, Idaho, Minnesota, North Dakota, New Jersey, New York, Ohio, Utah and West Virginia. This is also the practice in other States where it is not prescribed by law, for we found it in operation in Indiana, Illinois and California.

Reasons why this system has been neglected in other States.

166. It is true that in some prisons this essential principle has been, to some extent, neglected of late years. This is due to two main causes. In the first place there has recently been a considerable movement in the United States towards the introduction of "farm jails." The evils of confinement in a city have been found to be so great that an effort has been made to get the prisoners away into the country, and in order to accomplish this there has been a disposition to sacrifice other things and hastily to run up buildings in rural surroundings, irrespective of their fitness for prison use. The other cause is to be found in the circumstances of the American civil service system. As is well known, there is there no permanent civil service such as exists in England and India. Officials change with the political party in power at the moment: a man may be a journalist, a farmer or a merchant to-day, and the superintendent of a prison to-morrow and *vice versa*. Nor is there any central authority qualified to guide these untrained officials. The central authority also changes with the political administration and is of no greater experience than the subordinates it directs and criticizes. We yield to no one in our admiration for many features of the United States prison administration: the readiness to experiment, the eager welcome given to new ideas, the absence of narrow conservatism. The United States have for years been the great laboratory in which new and valuable ideas have been conceived, developed and executed; but this very attitude of open-mindedness has its dangers. There is a very real risk of rash-innovation and hasty generalisation. In the absence of a stabilising element, such as is supplied in other countries by the permanent officials, the machine is in a state of imperfect equilibrium. It is a sufficient commentary on the American position to add that the most stable element is supplied by the several un-official prison societies which, being outside the harmful range of political faction, are able to obtain and keep expert and trained penologists on their staff.

Instances in America where system of separation at night has been given up.

167. In these circumstances we attach little importance to the fact that here and there in the United States the sound principle of separation at night has been

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departed from. Such an occurrence should be regarded merely as a temporary triumph of re-action or ignorance. The instances of it which came to our notice were certainly not such as to recommend it. At the Workhouse and Reformatory of the District of Columbia, situated at Occoquan about twenty-five miles from Washington, we found 500 men kept at night in two long dormitories, each holding 250 prisoners, one for white men and one for coloured. The prisoners had no separate beds but slept on a continuous raised ramp on which not even the sleeping space allotted to each man was marked out. It is easy to decide whether such a procedure should be regarded as a model for adoption in other places. At the Indiana State Farm at Greencastle, thirty miles from Indianapolis, four dormitories have been provided each holding 180 prisoners. Some rough attempt is made to put the better class of men in one of the dormitories, the rest are mixed up anyhow. At the Erie County Prison Farm, some forty miles from Buffalo, prisoners sleep in a large dormitory, from 70 to 150 men being thus kept together. The discipline in this institution may be gauged by the fact that in one year (1915) there were 65 escapes out of a daily average population of 180. All the above are essentially farm prisons, located from twenty to fifty miles from a town, and all of quite modern origin. At one city prison we found that, under the influence of the vigorous personality of a Warden whose original calling was that of a brick-layer and who had developed the factory side of his prison with conspicuous success, but who did not believe in separation at night, it was proposed to "tear out" the cell blocks and to substitute dormitories, and we actually saw a body of 130 men sleeping together in one vast room. The degree of consistency which characterised the authorities of this institution may be estimated by the fact that, though the prisoners slept in association, they were not allowed to talk at meals because "prisoners are the greatest gossips in the world." Moreover, these same authorities professed to believe that of the prisoners thus turned loose to sleep in association 50 per cent. were feebleminded! Such aberrations can hardly be relied on as an argument for action in India or elsewhere.

Opinions in favour of separation at night.

168. But these views by no means represent the opinion of the bulk of prison officials in the United States. Dr. Christian, the experienced head of the famous Elmira Reformatory, strongly disapproved of dormitories, believing that in a dormitory the influence of the worst element tends to predominate. He stated that at New Hampton, where it had been proposed to build dormitories, that plan had been abandoned, Mr. Lawes, the Warden, a penologist of undoubted reputation, having come to the conclusion that separate sleeping accommodation for each prisoner was to be desired. At the Indiana Women's Prison, Miss Elliott, the Superintendent, was greatly opposed to dormitories. She told us that she had been an official of an institution where there was a dormitory, and that it was the centre of trouble and corruption. Almost all women in charge of female institutions prefer separate rooms for inmates on the ground of the contamination which passes from one woman to another. Dr. O. F. Lewis, General Secretary of the New York Prison Association, told one of us that relatively few prison workers in the United States of America believe in the dormitory system.

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General position of the question in America.

169. The general position in the United States of America may thus be said to be that practice regarding separation of prisoners at night varies, but that for the reasons given above the steps taken in the direction of association wards represent in our judgment not a deliberate change in the tendency of informed opinion but a temporary re-action due to local causes and to the absence of any steady, guiding influence. We are, of course, not here dealing with juveniles, whether boys or girls, as the use of dormitories for these is common in all schools, owing to the less corrupted nature of the inmates.

Opinion of Inspectors-general in India—(*i*) Madras.

170. Among prison officials in India, various shades of opinion on the subject of separation at night were found to exist. In the Madras Presidency the principle of separate sleeping accommodation for every prisoner has been accepted for many years by the local Government; three cellular jails have been built, a fourth prison has been converted into a cellular structure, and a large number of cells provided in other jails. There are now over four thousand cells for male convicts in this Presidency, while the association wards accommodate another five thousand. The system of separation at night has thus been subjected to long and thorough trial in this Presidency, and the opinion of jail officials there is unanimous in its favour. Although association wards and cells exist alongside each other in most jails, every jail official consulted was without exception in favour of separation. The Inspector-general wrote: "The association principle is responsible for much evil in jails. All the plotting and scheming against authority, the unnatural offences, the breeding of habitual offenders, and the like, goes on in association wards and there is no argument that can be put forward in favour of the system that cannot be over-ridden by stronger arguments against it."

Opinion of Inspectors-general in India—(*ii*) United Provinces and the Punjab.

171. The Inspectors-general of the United Provinces and the Punjab, past and present, strongly supported the same view as was held in Madras. On this point the opinion of Major Finlayson, then Superintendent of the Lahore Borstal Central Jail and now acting as Inspector-general, is of some special interest, because he has served both in Madras and in the Punjab, and has, therefore, had experience of both systems. His opinion was entirely in favour of separate cells. The Government of the Punjab kindly laid before us a valuable paper from Colonel Bate, C.I.E., C.B.E., I.M.S. (retired), for many years Inspector-general in that Province. His view was particularly emphatic: "It is not putting it too strongly to say," he wrote, "that every association barrack is not only a nursery of criminals but a grave public danger."

Opinion of Inspectors-general in India—(*iii*) Bengal.

172. In Bengal, Lieutenant-Colonel Thompson, the Inspector-general, took up an intermediate position. He advocated the provision of cellular accommodation in all small district jails and sub-jails, in order that short-term prisoners might be entirely separated from each other at night.

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He also approved of entire separation at night for all habituals. But he thought (in view of the financial aspect of the question) that one half of the population of an ordinary non-habitual jail might be allowed to be in association, as a privilege, without undue risk of corruption. He saw no objection to cells on hygienic grounds if they are properly constructed.

Opinion of Inspectors-general in India—
(iv) Assam, Central Provinces, Bombay and North-West Frontier Province.

173. The Inspectors-general of Prisons in Assam, the Central Provinces, Bombay and the North-West Frontier Province did not go quite so far as Lieutenant-Colonel Thompson in the advocacy of separation at night. They generally took the view that separate cells should be provided for all habitual prisoners, but they thought that first offenders might be allowed to be in association.

Opinion of Inspectors-general in India—
(v) Bihar and Orissa, and Burma.

174. At the other end of the scale came the Inspector-general of Prisons, Bihar and Orissa, and the Inspector-general of Prisons and Inspector-general of Civil Hospitals, Burma. The first-named, Lieutenant-Colonel Singh, C.I.E., remarked that he was not in favour of separating at night every individual prisoner in a jail because the system would be very expensive "and not much superior to the association system." In his oral examination he committed himself to the view that "if you keep bad men with good men, the influence of the latter always acts for the good of the former." In Burma the Inspector-general of Prisons was strongly in favour of the association system more or less on present lines, believing that the cell system is not suited to oriental conditions and that "the system generally is doomed." The Inspector-general of Civil Hospitals went even further, and advanced the view, subsequently dissented from by the Inspector-general of Prisons, that to require a Burman to sleep by himself would produce melancholia! On the other hand the Superintendent of the Central Jail, Rangoon, strongly condemned the association wards in use in Burma and advocated the introduction of cellular prisons.

Opinion of other Indian Jail officials.

175. It would take too long to analyse the evidence of all the other witnesses. A large body of opinion was in favour of the provision of separate sleeping accommodation for the habitual. Among experienced jail officers holding this view may be mentioned Colonel Hamilton, I.M.S., and Major Galvin, I.M.D. of Bengal, Major Gillitt, I.M.S. and Colonel Sunder, I.M.S. of Bihar and Orissa, Captain Rodgers and Mr. Collins of the Central Provinces, Messrs. Brierley, Hall, Plunkett and Wachha of Bombay, Colonel Hutcheson, I.M.S. of the United Provinces, Jailors Ganda Singh of Benares, Mithan Lal of Bareilly and Hukam Singh of Lahore. In the case of the first offender, opinion varied, many officers, unfamiliar with the working of a cellular jail, thinking that first offenders could be safely allowed to be in association or that it would be too severe on the first offender to require him to sleep every night alone.

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Experience negatives supposed ill effects of separation at night.

176. We think it is sufficient to base the reply to this argument on the teachings of experience. In England (to say nothing of Belgium, France and the rest of Europe) every prisoner has slept in a cell every night for the last half century. In Madras cellular jails have existed for forty years, and no medical officer has testified that they produced any ill effect. Many medical witnesses gave evidence before us that prisoners could be confined for long periods in cells without ill results. The Prisons Act, drawn up on the advice of a Committee of experts, authorises entirely cellular confinement, by day as well as night, for six months. The Prison Conference of 1877, an expert body, was unanimously in favour of separation both by day and night. The Jail Commissioners of 1889 wrote: "We agree with the view that perfection of penal discipline and treatment can be maintained only in separate confinement." The idea that to require a man to sleep separately at night will injure his health or impair his brain is thus contradicted by experience. It may perhaps be explained by the natural prejudice against the adoption of an unfamiliar system.

Deterrent effect of separation at night.

177. There can be little doubt but that the system of separation at night is much more deterrent to the average convict, at any rate in this country, than the system of association. There may be a small number of prisoners drawn from the more educated classes of Indian society who would prefer to be separated at night, or more probably, to be in association only with prisoners of the same social status as themselves; but this is not the case with the great bulk of the prisoners admitted to Indian jails. Most witnesses agreed that they would prefer the conversation and other amenities of the association ward to the solitude of a cell. The association ward reproduces, no doubt with a grosser tone and other objectionable accompaniments, the atmosphere of the barrack sleeping room or the public school dormitory. If it is desirable that the jail should offer these attractions to the criminal, whether the first offender or the habitual, then association at night is the proper plan, but if not, the association ward should be abolished. In our opinion while reformation must remain the main object of the penologist, it is also decidedly necessary that the deterrency of the punishment should not be lost sight of. In the interests both of the public and of the prisoner, prison should not be a place of cheerful conversation but one where it is constantly brought home to the offender that "the way of the transgressor is hard". We therefore urge the necessity of separation at night on the ground that it is more deterrent than the association method.

Reformative and administrative value of separation at night.

178. The reformatory and administrative value of the system of separation at night cannot be gainsaid. It enables castes, classes and individuals to be separated completely and reduces greatly the risks of contamination. The advocates of association at night apparently suggest that when the worst class of prisoner has been separated from the medium class and the best from both, the members of each of the three classes can be left to associate freely among

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themselves. We consider that this view is unsound from every point of view. It is certainly desirable to classify prisoners so far as our means of doing so permit, but it is an error to suppose that such classification is either infallible or complete. The methods of classification at present available are imperfect and, so far as we can see, must ever remain so. It is possible to read a prisoner's record but not to read his mind, disposition or moral character. No classification can detect the future habitual in the present first offender, unless indeed the prisoner is clearly defective, and even then temperamental differences exist. We do not suppose that the more sober adherents of the new doctrine of "psychiatry" claim that they can do more than indicate the weak-minded or those who are suffering from definite mental or nervous defect.

Classification of prisoners, an inadequate safeguard.

179. Classification must therefore always be liable to err. But apart from this, it can never go far enough to justify the proposals of the supporters of association. The assumption that when you have separated the apparently "worst" prisoners from the apparently "indifferent" and when you have also separated the apparently "best", nothing more is necessary, appears to us to be a transparent fallacy. In each of these classes there will exist every grade and shade of crime and criminal impulse. Human character is not so simple that it can be thus cut up into three classes. Even among habitual offenders, all will not be equally corrupt. The proposal to turn them all loose in a common dormitory (or series of dormitories) where the more depraved can complete the corruption of the less depraved seems to us to be unfair and indefensible. The same is true of the other two classes, *mutatis mutandis*. We contend that such association is bad for the prisoner and bad for the State; that it is contrary to the true principles of reformation for which we, in this Report, stand; and that it is the perpetuation of a vicious system which has been abandoned in most parts of the civilised world.

View that one prisoner will reform another prisoner examined.

180. It is perhaps hardly necessary to deal at any length with the view put forward by the Inspector-general of Prisons, Bihar and Orissa, and by one other witness, an Indian jailor, that when good and bad prisoners are mixed together, the influence of the good will always prevail. If that were true, classification would be unnecessary and all convicts could be left in unrestricted intercourse, in full confidence that the worst prisoners would be reformed by the best. Unfortunately the saying that "Evil communications corrupt good manners" still remains true. At every Prison Congress, prison officials of every shade of opinion have agreed as to the bad results which ensue from indiscriminate association. Indeed, it seems to us that the theory that the thief will convert the dacoit, the forger the cheat, or the rapist the hooligan only needs to be stated to be rejected.

Unnatural vice in association wards.

181. In this connection it is impossible to avoid a reference to the unpleasant subject of unnatural vice in jails. A great deal of evidence was given us on this topic. Witness after witness expressed the opinion that it was a common occurrence in

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association wards. Being then subjected to cross-examination as to how many cases they had actually known, they had to admit that they had had definite proof of but few. It was indeed hardly likely that definite proof of such secret practices would be commonly obtainable. We heard indeed of a case in Madras in which a convict officer who made advances to a man in a cell was so severely injured by the latter that no room for doubt remained. It seemed to be common knowledge that in the North-West Frontier Province the practice is rife, not merely in the cities. We had it in evidence in Bengal that sodomy is part of the initiation ceremony in one of the political clubs in that Presidency, and is not uncommon among the lower classes. We also furnished with statistics showing the occurrence of 79 cases in the Benagl jails in a period of five years. Perhaps, however, the most conclusive evidence we received is the report made by Lieutenant-Colonel Mulvany, I.M.S., on this subject in 1905 and printed as Appendix IX to Volume II, Minutes of Evidence, together with the intercepted letters of prisoners which form Appendix V and an addendum to Appendix III to the same Volume. No one can read those letters, we think, without being impressed with the grave and serious objections that exist to the retention and perpetuation of the system of association at night. If it is said (as it has been said) that though association wards permit the commission of unnatural vice, cells allow the practice of self-abuse, we would reply first that in an association ward both self-abuse and unnatural vice are possible while the latter at least is impossible in a cell and secondly that, if a choice must be made between the two evils, we would unhesitatingly choose that which, whatever its physical danger to one person, does not involve the moral degradation of two.

Other irregularities possible under association system.

182. Unnatural vice is not, however, the only evil which the association system permits and encourages. It aids and renders possible all kinds of other irregularities—card-playing, gambling and the like. We have ourselves seen a pack of cards made in a jail for the purpose of being used in the barracks at night. A non-official witness who had served for five years as a sub-assistant-surgeon in the Jail Department of the United Provinces testified before us not only that he had seen gambling going on in the wards but that he had seen boys dressed up as prostitutes and put up to sing songs for the amusement of the other prisoners. As he admitted that he had failed to report these occurrences to his superintendent we should have declined to credit him, had it not subsequently appeared from the evidence of Mr. L. Stuart, I.C.S., First Additional Judicial Commissioner, Oudh, that very similar excesses actually occurred a few years ago in the Fatehgarh Jail. We would lay stress on the fact that under the association system there is an ever-present danger of irregularities such as these arising. Under the system of separate sleeping accommodation they are practically impossible.

Recreation between hours of 6 and 9 p.m.

183. Prisoners in Indian jails are locked up between 5-30 and 6-30 P.M. and it is recognised, even by the advocates of association wards, that the early hours of the night, when many prisoners are not asleep, are the most dangerous time. Many witnesses told us that it is then that harmful conversation and lewd talk

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go on. In order to reduce this evil, those members of the Committee who support the retention of the practice of sleeping in association have proposed the provision of a "recreation room" in each barrack where prisoners can talk and play games. We approve of this suggestion, as being evidently better than leaving the men unoccupied in their wards. But it seems to us that such a device is only necessary as a palliative where the prisoners are kept in sleeping barracks. Where each man is in a cell or room by himself there is no necessity for the provision of recreation. A man who has done 8½ or 9 hours' hard work by day is quite ready to sleep if he is in a room by himself, though he cannot do so if he is in a ward where conversation is going on. Nor do we think that, apart from the evils of the association ward, the provision of a recreation room is desirable. We cannot accept the American practice of giving prisoners every sort of indulgence in jail. As we have already stated, the deterrent side of imprisonment must not be forgotten. We are therefore unable to appreciate the attitude taken up by one of our number, who approves of separation at night in principle and who would enforce it in the case of habituals, but who accepts association for first offenders on the ground that a system of cells is incompatible with recreation between 6 and 9 P.M. Even if it were agreed that occupation between 6 and 9 P.M. is desirable, to expose prisoners to the contaminating influences of sleeping in association in order to secure it, seems to us to betray a want of sense of proportion.

Climatic objection to cells examined.

184. Much stress is laid on the difficulty of keeping prisoners in cells at night in the hot weather. On this point we would draw attention to the conclusions arrived at by our predecessors, the Jail Conference of 1877, largely composed of practical prison administrators. They were unanimously in favour of separation and they were convinced, not only that separate confinement need not be feared on the score of unhealthiness but that it would render imprisonment more healthy. In Madras separation at night throughout the hot weather has been carried out, without ill results, for the last forty years. Medical and other witnesses admitted before us that prisoners could sleep in cells throughout the year in the Deccan, Bihar and Orissa, the Central Provinces, and Lower Sind. Some persons thought there might be objections in the Punjab and Upper Sind, but when we reached the Punjab, we found that the witnesses with practical experience of that Province, the then acting Inspector-general, Major Dalziel, the present acting Inspector-general, Major Finlayson, and the Superintendent of the Central Jail, Montgomery, Major Courtney, did not support this apprehension and said that cells were not hotter than barracks and that cases of heat stroke came as much from one as from the other, and most of all from men employed outside. We did not visit Upper Sind. If it really forms an exception to the rest of India, it is a small local area which does not affect the general issue.

Improved type of cell desirable.

185. We consider that the type of cell in use in many Provinces in India is susceptible of much improvement, but the fact that for many years prisoners have slept in these cells without recorded ill results clearly indicates that with an improved type of cell, the supposed objection on grounds of health, which was

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exploded as long ago as 1877, can be confidently rejected. That this is true will also appear from the fact that whereas a prisoner in a ward is allowed only 650 cubic feet of breathing space, a prisoner in a cell has 1,248 cubic feet, or nearly double.

View that cost of cells is excessive examined.

186. It is certainly probable that the cost of building a cellular jail would be greater than that of building an association jail. It must cost more to build fifty rooms for fifty prisoners than to build one room for fifty prisoners. What the excess cost would be has not been calculated by professional authority and cannot be accurately known until it is so worked out ; but we consider that it is a doubtful economy to continue to build prisons on a principle which renders possible the spread of corruption and the occurrence of the abuses we have noticed. It ought to be added that in our opinion (and in that of several of our witnesses, including so experienced an officer as Lieutenant-Colonel Mulvany) cells require less guarding than association barracks, and their provision would therefore effect a saving in establishment charges.

Summing up.

187. To sum up, we recommend that all future jail construction should provide separation for all prisoners at night :—(*i*) because the need for separation at night is the accepted principle in Great Britain, the only country which has shown a large and progressive reduction in crime ; (*ii*) because it has been proved by many years' experience to be both feasible and beneficial in India ; (*iii*) because it prevents to a very considerable extent corrupting conversation and the contamination of one prisoner by another ; (*iv*) because it renders impossible unnatural vice, gambling and other abuses at night ; and (*v*) because it is more deterrent.

Section IV.—The Opinion of the Member* who favours Separation at Night for some Classes of Prisoners and Association for other Classes.

Opinion of Sir James DuBoulay.

188. I do not completely agree with either of the views put forward by my colleagues. I recognise to the full the possibility of contaminating influences which is inseparable from association at night, but on the other hand it is, in my judgment, unnatural to impose upon a man idleness and solitude for two or three hours out of every twenty-four, over and above the time when he may reasonably be expected to sleep. There is a danger that such treatment may produce ill effects upon his outlook and character ; and no means, by which this danger could be minimised without excessive expenditure, have been suggested. The advantages and disadvantages of complete separation at night are thus somewhat nicely balanced. In the case of long-term prisoners of the non-habitual class the disadvantages outweigh the advantages. In the case of habituals,

*Sir James DuBoulay.

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as we have defined them, the converse is the case, for among these prisoners there is less room for deterioration, less prospect of reform, and a greater certainty of contaminating conversation. The advantages preponderate, too, in the case of short-term non-habituals. It is of special importance to protect them from contaminating influences, and it is unlikely that the daily enforced period of idleness and solitude will produce any serious ill effects if the treatment is of brief duration. Holding these views I conclude that the cellular system is best for habituals, and for short-term non-habituals ; association at night is best for long-term non-habituals. It is thus desirable that accommodation for habituals should be completely cellular, as also for prisoners of the non-habitual class undergoing sentences of, say, not more than three months ; for others of the non-habitual class it will suffice to provide cellular accommodation to the extent of 15 per cent. of the population, to provide for their reception on first arrival and subsequent temporary segregation, should any of them misbehave or give trouble. The actual amount of cellular accommodation at any particular jail will depend upon the number of each of these classes of prisoners expected to be confined in it. The cells must be better ventilated than some of those we have seen, and the medical officer should have authority to make alternative arrangements, when extremes of heat render it advisable, as is already done in Upper Sind. A certain number of cells should be furnished with sufficient light to enable the very small proportion of literate prisoners to read for the two or three hours before they go to sleep.

CHAPTER IX.

PRISON LABOUR AND MANUFACTURES.

Meaning of term 'hard labour.'

189. The question of labour in jails raises some of the most difficult problems which have to be solved in connection with prison administration. In the first place, it is necessary to decide what should be the aim or object of the administrator in the selection of jail employment. The court's warrant and the provisions of section 53 of the Indian Penal Code leave no doubt that an offender sentenced to rigorous imprisonment is liable to "hard labour." What is the meaning of this liability? Is the officer to whom the warrant is addressed thereby bound to see that every prisoner sentenced to rigorous imprisonment is, throughout the term for which the court's sentence extends, subjected to hard physical labour? The Indian Penal Code does not attempt any definition of what is meant by "hard labour," but it seems to us to be beyond reasonable doubt that the words do not necessarily mean hard physical labour. This follows from the well-known fact that any form of labour is hard labour, if it is performed under such conditions or for such periods as to constitute a severe physical strain. Every jail officer knows that the question whether any particular form of labour is hard or not largely depends on the task. When therefore the Indian Penal Code provides that every prisoner sentenced to rigorous imprisonment must have hard labour, the direction does not amount to more than an injunction that the prisoner shall be made to work hard at whatever employment is selected, not necessarily one involving severe physical exertion. The direction of the Code in fact does not furnish any guidance as to what principles are to be followed in the selection of prison labour.

Hard labour and the exploitation of the prisoner.

190. One possible view of the matter is that, inasmuch as the prisoner is an offender against the State who has for the time being forfeited his rights as a free man, the State is justified, especially as it has to defray the cost of his support, in making the maximum profit, or at least in obtaining the largest possible return, from his labour, regardless of other considerations such as the effect of such treatment on the prisoner. This view was at one time held and acted on in some countries. The prisoner was looked upon simply as a chattle for the time being at the disposal of the State and was exploited ruthlessly. In the end, however, it was recognised that such a procedure is short-sighted. It is calculated to arouse in the prisoner's mind a feeling of permanent hostility to society. It fails altogether to furnish any ground for hope that he will not, on release, commit further crimes. By neglecting all considerations except that of immediate profit, it sacrifices any prospect of reforming the prisoner and of turning him into a useful member of society.

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Hard labour as a means of the reformation of the prisoner.

191. We are thus led to the conclusion that the mere extraction of profit cannot be the true object to be kept in view in the selection of prison labour. That object must rather be the prevention of further crime by the reformation of the criminal. It is customary here to draw a distinction between treatment which is deterrent and that which is reformatory, but we think it is more correct to regard the whole question as one of reformation. This result may be brought about partly by exacting such labour or such an amount of labour as will be distasteful and irksome to the prisoner and so leading him to avoid conduct which will bring him back to prison. It may also be accomplished by giving him forms of labour which will excite his interest, lead him to exert his powers willingly and so enable him to form habits of industry. Lastly, reformation may be assisted by providing a prisoner with such work as will train hand, eye, or mind, or otherwise make him better fitted to earn his livelihood honestly outside the jail. Including all these views under the term reformation, the first conclusion we come to is that the main object of the labour to be provided in prison should be to effect the reformation of the prisoner.

Non-productive labour condemned.

192. It is, we think, generally agreed that with this object in view all forms of labour which are purely purposeless and sterile should be eschewed. The Committee of 1836-38, as we have seen, expressed the view that prisoners should be employed in such "dull, wearisome and disgustful exertion" as the hand-crank or the tread-wheel which was to produce nothing, so that the prisoner might not even have the satisfaction of knowing that his labour was of use. Later experience has modified these early and somewhat crude ideas and it is now generally admitted that entirely non-productive forms of labour, including the practice of digging pits in order to fill them up again, carrying stone or other weights from one point to another and then taking them back again, and the like do not tend to reformation and should be avoided. So far as we know, they do not now exist in any Indian prison.

Hard labour and short-term prisoners.

193. When we come to consider what forms of labour can be selected with a view to the carrying out of our main principle, the reformation of the prisoner, we are struck at once by the difference which must arise between the case of a prisoner who is in jail only for a month or even for six months and the case of a prisoner sentenced to a long term of imprisonment. It seems evident that in the case of the short-term prisoner, there is not time to teach him a trade or put him to anything except such forms of labour as do not require long training. We recognise, therefore, that for such prisoners the only possible employment is unskilled labour. Such labour generally (but not necessarily) involves hard physical exertion and the result is that the short-term prisoner, though his crime is presumably less grave than that of the long-term prisoner, will ordinarily have to perform the less attractive forms of labour in jail. This follows, however, unavoidably from his position as an unskilled labourer; if he does know a trade on admission he can, if such a course is on other accounts

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suitable, be put on that trade at once, for the advantage of utilising any skill which the prisoner may already possess is obvious.

Other limitations of reformatory labour.

194. In the case of prisoners whose sentences are for longer terms, the difficulty arising from there not being sufficient time to teach a trade does not exist and it is therefore possible to concentrate attention on what, as has been shown, should be the main object of prison labour, namely, the reformation of the prisoner. Necessarily this general principle must in practice be subject to practical limitations. Thus there are certain services in every jail for which convict labour must be provided, and all prisoners, whether their sentences are long or short, are liable to be called on to take their share in the carrying out of these services. It would be unjustifiable to impose on the tax-payer the cost of employing paid labour to perform these services when convict labour is freely available. If a long-term prisoner has to be thus employed, it is clearly better that the period thus undergone should come at the beginning of the sentence rather than later, when the man has been trained in an industry and when his reversion to unskilled labour, except as a punishment, would involve a sacrifice of efficiency and some hardship to him. Moreover, if such period comes at the beginning of the sentence it gives the jail authorities an opportunity of acquiring some knowledge of the prisoner and of learning for what industry his capabilities are most fitted. But the performance of a period of labour of this nature should not be imposed as a routine or merely for the purpose of rendering the initial period of confinement specially severe. It is ordered, when necessary, in the interests of jail economy and not in contravention of the general principle that labour should be so selected, as, as far as possible, to train, reform and assist the prisoner.

Agricultural labour.

195. What then are the forms of labour which in this country are most likely to be beneficial to the prisoner? On this subject wide differences of opinion have been expressed. Some authorities, relying on the fact that over 72 per cent. of the population of India are engaged in agriculture and that 57 per cent. of male convicts admitted to jail are returned as agriculturists, insist that agriculture should be the staple jail industry. We have much sympathy with this idea but on full consideration we have been compelled to abandon it as impracticable. We shall refer to the question again in connection with extramural labour, but we feel no doubt that to supply agricultural labour for the 100,000 prisoners who represent the average daily population of Indian jails is out of the question. As the Government of India laid down in Home Department Resolution No. 10-605-18, dated the 7th May 1886, as reaffirmed in Mr. Butler's letter No. 145-155, dated the 29th April 1912, the principal mode of employment for long-term prisoners must be intramural.

Intramural labour and modern industrial methods.

196. We have next to consider whether such intramural employment should be conducted, as is at present mainly the case, with the old-fashioned implements

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of the country, the hand-loom, the hand-press and similar antiquated and out-of-date devices, or whether an attempt should be made to teach jail labour the use of modern methods, the machine tool and machinery generally. In this connection we cannot, we think, ignore the more general considerations which surround the issue. The world is in great need of increased production ; should not the labour which is available in jails be employed in the most productive manner ? India is on the verge of great industrial development ; should not the prisoner in jail be helped and qualified to take his part in this development ? Apart from these possibilities, it is evident that training under modern conditions must possess a greater instructional value than a period passed in breaking stones, in turning the handle of an oil-press or even in working the simple primitive mechanism of a hand-loom. We have come to the conclusion that the greater benefit to the prisoner will be conferred by giving him the best available instruction in up-to-date methods of labour and so enabling him to command a living wage on his release from prison.

Concentration of jail labour on a few large industries.

197. In order that this system may be effectively carried out it is necessary that, as far as possible, attention should be concentrated in each jail on one or two large industries. This is necessary in order to enable the best use to be made of the available jail staff and to prevent their energies from being dissipated in a number of small industries. In most jails it is not possible to provide a large staff of technical experts ; the superintendent and the jailor have to direct most of the manufactures ; and for this reason alone the attempt to run multifarious employments in the jail is generally to be deprecated. In the smaller jails it may be found difficult to confine labour to one or two large industries but the soundness of the principle is not affected by such unavoidable exceptions.

Market for jail manufactures; government departments to take jail-made goods.

198. In order that the concentration of attention on one or two large industries, as recommended in the preceding paragraph, may be effective, it is obviously necessary that a steady market for the products of jail labour should as far as possible be secured, and it has long been recognised that such a market can be most conveniently found in the great consuming departments of the State. The Government which controls the policy of the Jail Department can also control the disposal of the supply contracts of the consuming departments. It is the Government which is responsible for the application of sound principles to prison administration, and which is directly interested in seeing that the carrying out of these principles does not involve undue cost to the public exchequer. This can be best effected by providing a market where jail manufactures can be utilised, subject to necessary safeguards as to cost and quality, and this market the Government has at hand and under its own control in its various consuming departments. We think, therefore, that it is beyond question that jail industries should be adapted as far as possible to meet the requirements of the public consuming departments and that these departments should, on their part, be compelled to purchase articles of jail

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manufacture, subject to the condition that they are of similar quality to, and not of greater price than, those obtainable in the open market. This principle was clearly laid down in Home Department Resolution No. 10-605-18, dated the 7th May 1886, and we recommend that it should now be explicitly reaffirmed.

Infractions of this principle. (i) Madras.

199. In the course of our inquiries we received a large number of complaints regarding the great and increasing extent to which the principle above noticed has been departed from. In the Madras Presidency, for instance, we were told that the contract for sandals for the police has of recent years been to a considerable extent diverted from the jails and given to the settlements for criminal tribes. While admitting the need there is for providing these settlements with regular forms of employment, we fail to see the advantage of achieving this object by depriving the jails, whose necessity is equally great, of long established forms of industry. The arrangement seems to be a typical illustration of what is meant by "robbing Peter to pay Paul." We have every sympathy with the desire to provide labour on which the persons detained in the criminal settlements can be steadily employed, but we suggest that this should be accomplished in some other way than by transferring to the settlements work hitherto done by the jails.

(ii) The United Provinces.

200. In some Provinces little or no progress appeared to have been made in inducing the consuming departments of Government to procure their supplies from the jails. This seemed to be especially marked in the United Provinces, the Punjab and the North-West Frontier Province. In the United Provinces we received the clearest evidence from experienced jail officials that the policy laid down by the Government is not being carried out. Thus, one experienced jailor of the United Provinces in his written evidence wrote "Government departments rarely utilise the Jail Department for the supply of their needs"; another jailor in the same Province informed us that "attempts have from time to time been made by isolated jails to secure orders from the Commissariat Department but for a variety of reasons they have invariably met with failure in the long run"; and a superintendent with long service in jails observed "Government could assist and also benefit very much more than it does by insisting that all its departments must buy their requirements, as far as possible, from jails" but "most articles manufactured in jails are sold to the general public." We do not feel in a position to decide whether the state of things thus brought to notice is due to the failure of consuming departments to place their orders with the jails or of the jail authorities to organise their industries so as to be in a position to deal promptly and satisfactorily with such orders. As a fact we found that with the exceptions of the carpet factory at the Agra Central Jail, the products of which are mainly sold to the public, and the woollen factory in the same jail, there seemed to be few organised manufactures in the jails of the United Provinces. Antiquated implements such as the country loom without the fly shuttle were in use, and life-convicts were employed in such trifling occupations as twisting fibre instead of being taught a useful industry.

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(iii) The Punjab and the North-West Frontier Province.

201. In the Punjab a not altogether different state of things seemed to exist. Colonel Bate, a former Inspector-general of Prisons in that Province, admitted, in a Note prepared for our benefit, that for various reasons he had failed to make any marked advance in the development of manufactures. The present permanent Inspector-general is on furlough but we gathered from the acting incumbent, and from what we saw ourselves in the jails, that the jail manufactures of the Province are in a very backward condition. There is a printing press in the Lahore Central Jail but it is worked by lithographic process, a method long abandoned in most other Provinces. In the Peshawar Jail of the North-West Frontier Province, another lithographic press exists and paper making on primitive methods is being carried on. The evidence which we received in this Province clearly led to the conclusion that there is room for considerable improvement in the direction of providing more intelligent and instructive forms of labour.

Jail manufactures must be of good quality; hence necessity for modern methods.

202. If the consuming departments of the public service are to be made to obtain their requirements from the jails, it seems clear that the jails must be held responsible for supplying articles thoroughly suitable to the needs of those departments. No department of the State can be expected to accept inferior or unsuitable goods merely because they are made in a jail. The jails must, therefore, be so equipped and staffed as to be able to turn out articles as good as those procurable in the open market. It is in this connection that the Home Department Resolution No. 10-605-18, dated the 7th May 1886, reaffirmed in the letter, dated 29th April 1912, No. 145-154, on the subject of jail manufactures, seems to us most to require modification. After laying down that jails must cater for government departments and that government departments must buy from jails, it goes on to say that jails must not be converted into steam factories, and though the use of steam machinery is not prohibited, no large extensions are to be permitted without the sanction of the Government of India. It seems to us that these instructions are in essence self-contradictory. If the jails are to supply the public departments at rates not above those charged by the private manufacturer, they must be allowed to utilise the same resources of modern science as are available to the manufacturer. There is a numerous class of articles which cannot be given the requisite finish by hand and for which machinery is indispensable. These, it is obvious, jails cannot supply if they are prevented from installing the requisite apparatus. Public departments again often require a large supply of goods at short notice : such orders cannot be complied with if the articles have to be made by hand. Moreover, it is hardly open to dispute that hand-made goods can seldom compete with machine-made goods except under specially favourable conditions as, for instance, when the skill of the hand-worker, the result of lifelong application to a particular trade, enables him to produce something which the machine cannot copy. But such conditions never occur in jails, for there the expert worker just as his skill has reached a high standard comes to the end of his sentence and is released. Machinery is thus specially necessary for jails which cannot count on the retention of their skilled workmen.

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Remarks of the Indian Industrial Commission on jail labour.

203. In Home Department letter No. 93 (Jails), dated the 17th May 1919, we were specially invited to deal with the remarks of the Indian Industrial Commission on the subject of jail manufactures, their competition with the products of free labour and the use of power-driven machinery in Indian jails. We observe that the Commission did not profess to offer final conclusions on this matter and recommended that it should be considered by experts, but they did make certain suggestions. After admitting that jail industries are justifiable in order to recover, as far as possible, the cost of the upkeep of the jails, to keep the prisoners employed and to teach them a trade that will be useful to them after release, the Report goes on to lay down that only manual labour should be allowed to be used in jails and that the extensive use of machinery is undesirable. While it suggests that jails could supply the needs of government departments to a much greater extent than at present, it proposes to deprive the jails of efficient and up-to-date means of manufacture, without which this result cannot be obtained. Finally, it condemns the manual industries which exist in jails as likely to compete with free cottage industries. On this point we agree with the Commission, but we are left in some perplexity as to what sort of labour the Commission would recommend in order to achieve the admittedly desirable objects of recovering, as far as possible, the cost of the upkeep of jails by the sale of the products of jail labour and of training the prisoner.

Limitations on jail competition with private enterprise.

204. The true aspect of this much-debated question may, it seems to us, be set forth somewhat on the following lines. It is the duty of the State to endeavour to reclaim and reform the prisoner in its hands by giving him the class of labour best calculated to interest and instruct him, to awaken his intelligence, to train him to habits of industry and application and so to fit him for free life. With the performance of this duty, no private interests should be allowed to interfere and if machinery furnishes, as we believe it does, the best and most reformative method of employing prisoners, then the use of machinery is justified, and no objection from interested classes or individuals should be permitted to stand in the way. On the other hand it should be thoroughly recognised that the task of finding employment for prisoners must be so conducted as to do the least possible injury to private enterprise. Jail manufactures should, we think, be carefully chosen so as to avoid competition with weak and unorganised trades or with budding industries; it is wrong for the State to enter into direct competition with the struggling hand-loom weaver or the village artisan; it would equally be wrong to start a factory in competition with some new private industrial enterprise, such as chemical industries or the production of nitrates. In making a choice of industries, local Governments should, and doubtless will, avail themselves of the advice of the local directors of industries as suggested by the Industrial Commission, but we think it is clear that the least injury to private enterprise will be caused by directing jail labour into those channels in which large, organised and powerful industries are already in existence, such as, for instance, the great jute and cotton industries of India.

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Power-driven machinery in jails—jute and cotton manufactures.

205. Now, these are, in fact, the lines on which the existing jail factories have mainly been developed. In the Presidency Jail of Calcutta, there exists a power-driven factory, for the manufacture of jute goods, with 50 looms. We are not in possession of the latest information, but we find that in 1916-17 there were in India no less than 74 jute mills with 39,697 looms and 824,315 spindles. No one would, we think, be likely to affirm that the 50 looms in the Calcutta Presidency Jail, or even ten times that number, could have any serious effect on the great, highly-developed and enormously prosperous jute industry of India. Much the same is the case as regards cotton weaving. At the Coimbatore Central Jail in Madras, there is a power-driven factory for the manufacture of cotton cloth. The number of looms in the factory is 110, while the number of looms employed in the 236 cotton mills of India in 1916-17 was 102,781 with 6,253,610 spindles. In such an industry the effect of jail competition must always be infinitesimally small.

Woollen manufactures.

206. The case of the factory for the manufacture of woollen goods in the Bhagalpur Jail in Bihar and Orissa is not dissimilar. This jail possesses forty power-driven looms which can turn out 35,000 blankets a year, or at 5 lbs. a blanket, a total weight of 175,000 lbs., and an average number of 428 men is employed on this industry. On the other hand there are at the present day in India six organised woollen mills which, in 1917, possessed 1,202 looms, employed 8,387 persons and turned out 11,468,000 lbs. of goods. The proportion between the jail industry and the free industry is somewhat larger here than in the case of jute and cotton, but is still small. It may be added that in this case it is not so much a question of a jail competing with free enterprise as of free enterprise competing with a jail, for the steam machinery in the Bhagalpur Jail was installed as long ago as 1878-79 and no promise has ever been made to abolish it.

Reference made to Chambers of Commerce.

207. The above facts seem to us to show that the jail enterprises at present carried on under factory conditions have mainly been directed in right channels, so as to do as little injury as possible to private enterprise. Other facts indicate that there is little real substance in the outcry that has been occasionally raised against jail competition. As soon as we reached India, we addressed all local Governments asking them to invite the special attention of the several Chambers of Commerce to our inquiry, so that they might have a full opportunity of laying their views before us and of sending a delegate to press them orally on our notice, if they saw fit. The replies are recorded in Appendix V and only one Chamber of Commerce in India, the Indian Merchants' Chamber and Bureau, Bombay, thought it necessary to depute a representative to appear before us.

Representative of Indian Merchants' Chamber and Bureau, Bombay.

208. The evidence of the gentleman, Mr. N. N. Mazumdar, who appeared as the representative of the Indian Merchants' Chamber Bureau, Bombay, is

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printed in Volume IV and speaks for itself. He admitted that the competition of the existing jail power-driven cotton and jute factories was so trifling as to be negligible, but nevertheless adhered to the objection to steam-driven machinery "on principle." When asked whether the hand-loom in jail would not compete with the hand-loom weaver outside, he could not deny that such competition would arise and would be infinitely more harmful to the hand-loom weaver than the existing power-driven machinery is to the great organised industries. Finally, when invited to make constructive suggestions as to the proper employment of jail labour, all that he could suggest was stone-breaking and road-making or agriculture, the last two of them essentially extra-mural forms of labour and thus, as we have seen, impossible of adoption for the general body of prisoners.

Use of machinery in English and American prisons.

209. A few words should perhaps be said at this point regarding a statement made by Messrs. Binny & Co., Ltd., Madras, in a letter dated 7th March 1910, that "India is the only country in the world which employs steam machinery in jails or which justifies such employment for the use of government requirements. A government controlled by public opinion would scarcely use such a pretext, and the fate of a British Ministry which turned on such grounds Parkhurst into a cotton mill or Dartmoor into a woollen factory would be sudden and memorable." Messrs. Binny & Co. were evidently not aware, when they penned these remarks, that in the Wakefield Jail power-driven machinery for the manufacture of woollen goods had long been in use, and that the goods there produced were for the use of government departments. Other prisons manufacture largely for the Admiralty and the Post Office, those departments accepting the jail-made goods without inviting tenders. In the United States of America, we found power-driven machinery of the most up-to-date character, freely employed in prisons and often realising large profits. At the Indiana State Prison there was, for example, an exceedingly busy and well organised factory turning out goods both for government departments and for sale to the public, while the State Prison of Minnesota at Stillwater has been rendered entirely self-supporting by the large manufacture through power-driven machinery of binder-twine for agricultural purposes. In the prison of Bilibid in Manila, to which our attention has been specially drawn, power-machinery is also employed, while in Japan similar machinery is freely utilised in the manufacture both of goods for supply to government departments and of an amazing variety of articles such as screws, files, brushes, shoes, furniture, stockings, clothes, mail-bags, hair-clippers, bicycles, suit-cases, for sale to the public. It will be seen that in their employment of power-machinery these jails go far beyond what has been done in India.

Summary of principles recommended.

210. To sum up the arguments contained in the foregoing paragraphs, we consider that as the reformation of the prisoner is the chief object to be kept in view, and as familiarity with power-driven machinery is instructive and mind-awakening, the provision of such machinery subserves the true functions of

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jail administration ; while at the same time it increases production and tends to give increased relief to the tax-payer. It is therefore from all these points of view justifiable, but it should be employed in well-established and organised industries and care should be taken to avoid any interference with nascent or unorganised industrial enterprises. Subject to this safeguard, we recommend that the restriction on the development of jail manufactures by power-driven machinery should be withdrawn, that consuming departments of the State should be directed to obtain their requirements from the jails, and that it should be the recognised duty of the Jail Department to develop their industries so as to meet these requirements. Sale to the general public cannot be prohibited and in the case of a well-established special industry such as pile carpets it need not be objected to, but in other cases it should be reduced to the minimum. In this point of view we are not in favour of jails issuing public advertisements, though there can be no objection to the maintenance of price lists and catalogues. In order to reduce the waste of time of the establishment which is often involved in the conduct of retail sale, articles intended for sale to the public should as far as possible be collected and sold at a central depôt and not locally. In making these recommendations we are not blind to the fact that increased production in jails will imply increased competition with free enterprise and that such competition affects particular interests, especially those of the shareholders in industrial ventures, more than it does the great mass of the community. We hold, however, that this objection can be sufficiently met by the selection of jail industries on the lines already indicated ; that when all is done that can be done, prison labour remains inefficient as compared with free labour, and that the total number of prisoners available for manufactures, spread over all the Provinces of India, is not sufficient to have any appreciable effect on the great mass of industrial employment in the country.

Excessive resort to manual labour.

211. In this connection, we would draw attention to the practice which we saw in certain jails of employing the whole available force of jail labour on purely manual work, irrespective of the length of sentence or of the reformatory effect of the work. Thus in the Mandalay Jail large numbers of prisoners are occupied throughout their sentence in grinding wheat. A contract has been entered into with the Commissariat Department to grind wheat for the troops, and long-term prisoners are liable to be kept at this labour for years together. Such a method of employment must have a deadening and deleterious effect on the prisoner, while the waste of power involved in keeping a large body of prisoners on such work is evident. In the Jubbulpur Jail, though machinery is used for weaving, the motive power is supplied by manual labour. Here again it appeared to us that the effect on the prisoner must be bad and the waste of labour indefensible. In many places it came to our notice that sufficient care has not been taken to select the most efficient appliances for manual labour. This is illustrated by the fact already noticed as to the great difference in the task exacted in different Provinces in the matter of pressing oil-seeds, these differences being partly due to differences in the efficiency of the mill used. Again we found in various jails that antiquated forms of the hand-loom were in use, even though the authorities were aware that better types

were obtainable. It was sometimes said that prisoners were incapable of learning to work on the more improved looms, but this is not an excuse that we think should be accepted, incapacity being really on the part rather of the jail authorities.

Expert direction of labour in large jails.

212. This leads us to the suggestion that the necessity of employing skilled supervision in every jail where prison manufactures are carried on on a large scale should be clearly recognised. From the point of view of economy, there can be little doubt that it would pay to provide expert direction in each large jail, and that the practice of leaving the conduct of jail manufactures in the hands of a jailor who has never had any industrial training and who has merely picked up what he knows in the course of his service in the Jail Department is essentially wasteful. We have touched on this subject in paragraphs 35 and 80.

The price of jail-made goods.

213. As regards the question of the price to be charged for jail manufactures whether sold to a government department or to the public, we have arrived at the conclusion, that, as laid down in clause (6) of paragraph 2 of Home Department Resolution No. 10-605-18, dated the 7th May 1886, the price of jail-made articles should follow as closely as possible the market rate. The detailed instructions which are given for arriving at a price, when a market rate cannot be ascertained, apply in such a small number of cases that they are mainly academic. If it were possible to do away with the system of charging profit and wages of jail labour in the case of articles supplied to all government departments, as has already been done in the case of articles supplied to the Jail Department itself, we should welcome that arrangement. Experience has proved that those charges are difficult to regulate evenly and are liable to produce misleading results. We realise, however, that there would be some serious objections to the course indicated. It would make it difficult to judge whether the manufacture of jail produce was being carried on on economical lines and whether jail-made goods, priced merely on cost of raw material *plus* a percentage of wear and tear of plant, were really produced as cheaply as the same goods could be bought in the open market. Difficulties might also be made by local Governments if they were called upon to make supplies to imperial departments without any charge for the labour of convicts supported at the cost of provincial revenues. On these grounds the retention of a charge for labour and profit, as laid down in the Resolution of 7th May 1886, seems unavoidable. But we are strongly impressed by the fact that the resulting figures of "profits," as exhibited in Statement XIII, are often fallacious. In the first place, they take no account whatever of capital expenditure, of stocks of raw material and manufactured goods, or of outstandings. Consequently, the result presented one year may be completely reversed the following year and the figures can only be at all relied on if a series of years is taken together. Even if that is done, many causes of variation remain. There are numerous classes of labour which it is extremely difficult to value, for example, that employed in a printing

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press which works entirely for the State. Unless the out-turn of all jail presses is valued on similar lines, serious discrepancies are liable to arise. For these reasons, we think that Statement XIII serves no useful purpose and we recommend that it should be abolished. In place of it the Statement, shown as XII-A. in the annual jail reports of most Provinces, should, we think, be substituted.

Uniformity in task advocated.

214. Before leaving the subject of intramural labour there are a few matters that may be briefly referred to. The first is the question of task. We could not fail to observe that there is lack of uniformity in the assessment of tasks in the several Provinces. Thus the day's task for pressing mustard seed is 10 lbs. in the Punjab, 12 to 18 lbs. in the United Provinces, and 12 to 13 lbs. in the Central Provinces, while in Bengal it is 20 lbs. for two men who are only employed on this labour for half the day, unless they are under punishment, when the task is 30 lbs. a man per diem. Other similar instances could be given, and we recommend that an early opportunity should be taken at the periodical conferences of Inspectors-general, which we recommend elsewhere in this Report, to attempt as far as possible, to introduce a greater measure of uniformity in the tasks exacted in the several Provinces, due allowance being made for local conditions.

Allowance for defective intelligence.

215. It is an undoubted fact that there is to be found in all jails a certain percentage of men who from dullness of intellect or other causes can never be brought to the stage of performing a full day's task in any skilled industry. When this failure is due to obstinacy and deliberate recalcitrancy, it must necessarily be dealt with by means of the punishments provided in the Prisons Act, after other influences have been tried and failed. But when the failure is due to inherent inability to pick up a trade, and is not the convict's fault, it seems to us that it is undesirable that the convict should be condemned throughout his sentence to such labour as grinding grain or pressing oil. For such cases special measures should be adopted ; the prisoner should be carefully watched to see what he can do ; and the superintendent should then endeavour to employ him on work suitable to his limited capacity.

Extramural labour in India—opinions of previous Committees.

216. We now pass on to the question of extra-mural labour. In the early stages of prison administration in India, this was the prevailing method of employment. The Committee of 1836-38 found tens of thousands of hard-labour prisoners employed on the roads, working generally in heavy fetters and without proper classification or discipline, and, as noticed earlier in this Report, they condemned the whole system. By 1864 the road gangs seem to have disappeared and the Jail Committee of that year did not touch on the question but the Prison Conference of 1877 dealt with the question of employing prisoners on large public works, such as canals. They said that they regarded this method as a most valuable, and almost as a necessary, adjunct of jail

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administration, but they did not recommend it for all convicts because it was not suitable for all constitutions, would not fit into any scheme of progressive classification, would disorganise intramural industries and could not everywhere be conveniently provided. Finally the Committee of 1889 strongly condemned the whole system of such extramural employ. They were entirely opposed to the use of prisoners on municipal roads, and as regards the system of public works gangs, they remarked : "So complicated are the conditions which influence the capacity of a mixed gang of prisoners to perform heavy earthwork under a hot sun, that we are convinced that the most careful and intelligent supervision will (as in the past) fail to keep them healthy or to justify their employment from an economical point of view."

Employment on public roads, drains and municipal work condemned.

217. The plan of employing convicts to repair public roads, clean public drains and do other such work for municipal or other local bodies is no longer followed in any part of British India, so far as we could learn, except in Assam and the Andamans. None of the witnesses from those areas defended the system and most of the Assam officials who gave evidence before us severely condemned it. Its continued existence in these parts of India is due to the absence of properly organised manufactures or adequately constructed jails. The system is undoubtedly open to numerous objections : classification of prisoners cannot be carried out, discipline is impossible, irregular interviews and other communications cannot be prevented, tasks cannot be enforced, there is a constant danger of the introduction of epidemic disease, and the public ignominy of such work is good neither for the prisoners nor for the general public. We certainly think that this method of employment, wherever it now exists in India, should be brought to an end and also, if possible, in the Andamans.

Instances of public works labour in certain Provinces.

218. The system of employing prisoners in gangs on large public works has of late years been followed to some extent in three Provinces, the Punjab, Bombay and Burma. In the Punjab it was not successful. Colonel Bate states that both at Rupar and Chenawan great difficulty was experienced in maintaining a good standard of health and he records his personal view as unfavourable to this method of employing prisoners. In Bombay the results obtained have varied. The Sind Gang, with a daily average strength ranging from 400 to 800 convicts, has been employed in canal silt clearance during the months of March to May, and on quarry work and breaking stones during the rest of the year. The health of the prisoners has not been satisfactory, the chief cause of mortality being pneumonia. If this disease could be successfully eliminated by protective inoculation, the health of the Sind Gang might be re-established, but under existing conditions it cannot be said that the employment of prisoners on public works in Sind has proved so successful that it ought to be increased or even continued. On the other hand the Deccan Gang which has an average strength of 1,800 and has for many years been engaged in the construction of the Visapur Tank Reservoir has done remarkably well. The health of the prisoners has been so good as to compare most favourably with that of any

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central jail, there have been very few escapes, and the net cost per head has been a good deal below the provincial average. In Burma a gang of about 500 men has been employed for the last three years in building a dam at Maymyo. This work has now been finished. The health of the prisoners has been very good and the cost moderate.

Principles to be followed in employment of prisoners on large public works.

219. The experience which has been gained in these works allows us to lay down certain fairly definite conclusions as to the conditions under which such works should be allowed. In the first place the question of climate and location are all-important. What may prove, and has proved, a success in the high, dry, open table-land of the Deccan would not be possible in the damp, moist climates of Bengal or in a climate like that of the Punjab where great extremes of heat and cold are experienced. We consider that no public works gangs can legitimately be started unless the question of the climatic conditions of the site and surrounding country have been very carefully examined by medical and sanitary experts. In this connection the provision of a good water-supply, with ample quantities both for drinking and bathing purposes, would necessarily have to be considered, and we would invite attention also to the need for an ample area of suitable land for the cultivation of vegetables for the prisoners. In the second place the work selected must be of such a character that it is concentrated at a single place and that it will last for a considerable time, at least ten years. If this condition is not fulfilled, suitable buildings cannot be provided and the prisoners have then to be kept in tents or other wholly temporary structures, with all the attendant evils of fetters, the belchain at night, bad ventilation and the like. Canal-digging, railway construction and road-making are thus unsuitable undertakings because they mean the constant moving of the gang's headquarters from point to point. It is further essential that the work selected shall not be unduly far from the site where the buildings for the prisoners are to be erected, as the prisoners' labour is greatly wasted and their efficiency diminished if they have to walk a long distance to and from their work.

Accommodation and guarding of public works gangs.

220. All these points require to be fully investigated before any project is selected for execution by prison labour. If they are satisfactorily disposed of, it is then necessary that proper buildings shall be erected for the accommodation of the prisoners. We have elsewhere explained the objections which in our view exist to the use of the belchain and we need not repeat them here. We are clearly of opinion that the buildings to be provided for any prisoners employed on public works, though they need not be as solid and substantial as in a permanent jail, should certainly be of such strength as to be safe against ordinary attempts to escape. There are at Visapur two types of sleeping barracks in use. One type has a dwarf-wall about 2½ feet high, with an open space between the wall and roof, except where supporting pillars occur. This type is obviously not safe against escape and necessitates all the men locked up in these wards at night being fettered and fastened together by a belchain. We have no hesitation in condemning these barracks. In the other type, the

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walls are carried up to the spring of the roof. If these are built of brick, with a wooden ceiling and windows properly built in to the wall and protected by iron frames and iron bars, they would be secure and inexpensive. No enclosing main wall is necessary. At Visapur the place of a main wall is taken by a very broad prickly-pear hedge, a most formidable barrier which few persons would care to attempt to negotiate ; one man who tried fell into the middle of it, a catastrophe which put an end to such attempts. If the wards and jail compound are properly lighted, such a jail should be practically secure.

Separation of habituals from casuals.

221. Sufficient barracks must be provided to enable proper separation of habituals from casuals to be carried out, if both classes of prisoners are confined in the jail. The preferable course, however, would be to send only casuals or only habituals to such a gang. We think that the best class of prisoners for a public works gang are those under sentences not exceeding twelve months, as men on longer sentences are ordinarily trained in manufactures, together with any men of longer sentence who have been found to be unfit for manufacturing work. It may be desirable to make small concessions in the matter of diet, etc., to men employed on these forms of labour, but for the most part the ordinary discipline and other arrangements of a permanent jail should be adhered to.

Public works labour restricted by observance of certain conditions.

222. It will be obvious from the foregoing paragraphs that, if the conditions and safeguards which we consider necessary are observed, the employment of prisoners in public works gangs cannot often be resorted to. Where those conditions are fulfilled, the example of Visapur shows that a high standard of health can be maintained, while the open air life and the employment in forms of labour not dissimilar from that in which large numbers of prisoners engage in freedom are not antagonistic to reformatory influences. One form of public works which may be mentioned as suitable is the construction of jail buildings. A successful instance of this occurred in the Madras Presidency in the nineties of the last century, when the cellular jail at Mount Capper near Cuddalore was entirely built by convict labour under departmental control. Many similar instances have occurred in other Provinces. Building work has also been largely carried on at several English, Scottish and American prisons. In the Punjab a small experiment was made, owing to shortage of labour during the war, in employing convicts as coolies for stacking and loading bags near the salt mine at Khewra. We had not an opportunity of visiting this camp-jail, which has a population of about 170 men.

The agricultural jail.

223. An entirely different type of extramural labour is that presented by the agricultural jail. In a country such as India where nearly 90 per cent. of the population live in villages of less than 5,000 inhabitants and over 72 per cent. are directly engaged in agriculture, the adoption of agriculture as the chief jail industry would seem natural and appropriate. The practical difficulties

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in the way of such a scheme are, however, very great. The density of population in India, 693 to the cultivated acre, has in many Provinces left but little suitable land available for utilisation by an agricultural jail. Moreover, farm work involves the distribution of labour over a very wide area with special difficulties in the way of supervision and guarding. Such a method may succeed under favourable conditions for limited numbers of comparatively short-term prisoners or of prisoners who have completed a large portion of their sentences and who can be trusted to behave well, but it can never play a very important part in the round of jail industries.

Requirements for agricultural jails.

224. In order to make an agricultural prison a success, it is necessary in the first place that it should be in a healthy climate. It must next be in the centre of a sufficient acreage of fairly good land on which the prisoners can be employed. Irrigation is not essential, but if there is no supply of stored water, either by way of tanks, wells or otherwise, the area must be one possessing a reliable and generally adequate rainfall. Nor must the necessity be forgotten of providing, in or near the jail, some means of employment alternative to agriculture. Under all agricultural conditions there are lengthy periods when there is little to be done in the fields. During such slack times work must be found for the prisoners, and the question whether quarries, forests or other suitable subordinate or additional industries exist in the neighbourhood requires to be considered. Under favourable conditions a fruit farm might possibly prove useful and remunerative.

Bulk of labour must be intramural.

225. Finally, it must be agreed that in view of the difficulties surrounding the provision of suitable extramural work, the bulk of prison labour must, as has long been recognised by the Government of India, continue to be employed on intramural industries.

CHAPTER X.

PRISON DISCIPLINE.

Section I.—Prison Offences and Punishments.

Origin of existing rules.

226. The subject of prison offences and punishments was specially investigated by a Conference, presided over by the late Sir Alfred Lethbridge, which met in Calcutta in January 1892, and the recommendations of that Conference were subsequently embodied partly in Chapter XI of the Prisons Act, 1894, and partly in rules made by the Governor General in Council or by the local Government under section 59 of the Act. The effect of these provisions was first to establish the principle that every offence committed by a prisoner must be dealt with by the superintendent of the prison and not by any subordinate authority, secondly, to provide that every punishment must be recorded in the punishment book, and thirdly, to introduce a uniform law relating to prison offences and punishments in all Provinces in India. These were important advances in procedure and are now well understood and established, and we do not recommend any change in regard to them.

Corporal punishment.

227. The evidence of the non-official witnesses who appeared before us shows that there is a considerable body of opinion among some sections of the public in India against the infliction of corporal punishment for prison offences. This sentiment is based on general humanitarian grounds and on the feeling that flogging is a brutalizing method of punishment. We have carefully considered whether it would be possible to recommend the entire abolition of corporal punishment and we are undoubtedly supported by the almost unanimous opinion of prison officers in all Provinces in concluding that this is impossible. But we feel very strongly that its use should be restricted within the narrowest possible limits and that it should be reserved for offences of special gravity, as is the case in England. An immense reduction in the resort to this form of punishment has already been effected, the average number of whippings in all the jails of India having been 293 a year in the five years ending 1918 as compared with 13,301 in the year 1875. We think, however, that there is still room for further reduction. Flogging, when kept in reserve as the last resource of authority, has a far greater moral effect than when it is cheapened by frequent use. Some of our most experienced witnesses expressed opinions adverse to the use of whipping for offences connected with labour and several of the non-official witnesses who had expressed views in favour of the entire abolition of corporal punishment in prisons agreed that there would be little objection to it if it was

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restricted to the gravest classes of offences. Accordingly, we recommend first that the punishment of flogging shall only be inflicted for mutiny or incitement to mutiny and for serious assaults on any public servant or visitor, and secondly, that a special report, based on the record required by section 51 of the Prisons Act to be made in the punishment book, on every case in which flogging has been inflicted shall be promptly submitted to the Inspector-general of Prisons.

Infliction of corporal punishment.

228. There are some details regarding the infliction of corporal punishment which we should like to see specially included in the Prison Manuals of all Provinces. The first is the instruction of the Government of India which is already in the Manuals of most Provinces that in order to prevent undue laceration of the skin, a piece of thin cotton cloth, soaked in some antiseptic solution, shall be spread over the buttocks of the prisoner during the infliction of the punishment. The second is the instruction which appears in the Bombay Jail Manual that the "drawing stroke" which is calculated to lacerate the flesh shall be prohibited. We also think that the words "not less than" before "half an inch" should be deleted from section 53 of the Prisons Act. We are aware that these words occur in section 392 of the Code of Criminal Procedure, but we regard them as open to objection because the section as it stands provides a minimum but no maximum diameter for the cane, while, in practice, the minimum is less important than the maximum.

Handcuffs and fetters.

229. We next deal with the subject of handcuffs and fetters. Here, too, there is a certain amount of opinion against the retention of these forms of punishment, and it is pointed out that they are not employed in England. We have carefully considered whether they could be dispensed with and have, with some regret, come to the conclusion that it is impossible to do so, especially if the enforcement of individual tasks is to be maintained. When a prisoner obstinately refuses to work or persistently neglects to do more than an insufficient amount of work, some means of compulsion are necessary. Penal diet is not, as a rule, a desirable punishment for Indians ; it is also open to the objection that it has the effect of rendering the prisoner *pro tanto* less fit for hard labour. As we have already said, we think that corporal punishment should be reserved for use in the last resort and for the gravest prison offences. It certainly could not be employed to deal with offences relating to work, of which there is an average of over 70,000 annually. Separate or cellular confinement will not meet the case as they involve removal from the workshed. Forfeiture of remission is often ineffectual and in any case can apply only to prisoners who are on the remission system, and gunny clothing is generally kept for offences connected with clothing. In these circumstances the only remaining form of punishment at the disposal of the superintendent of a prison is the imposition of irons and we think, therefore, that it must be retained.

Standing handcuffs.

230. There are three forms of punishment connected with the imposition of handcuffs, the most severe being that commonly known as "standing handcuffs"

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in which the prisoner's wrists are handcuffed to a staple which must not be higher than the prisoner's shoulder nor lower than his waist. The correct height will thus vary with the individual and we came across several instances in which this form of punishment was not being correctly carried out, the staple being placed too high. Partly on account of this liability to misuse and partly because the long period of enforced standing may be injurious, and because of the possible danger of the prisoner's fainting or having an epileptic fit while thus handcuffed to the wall, some of us* would like to see this form of punishment abolished. The majority, however, consider that these objections can be met by adequate safeguards and that the retention of the punishment is necessary for use in some classes of offences. We accordingly recommend that, in order to safeguard the resort to this form of handcuffs, it shall be provided that no punishment of "standing handcuffs" shall be executed until the prisoner to whom the punishment has been awarded has been examined by the medical officer and pronounced to be fit to undergo the punishment. We also recommend that the period for which it can be given at one time shall be limited to four consecutive days and to six hours per diem, with an interval of at least one hour after three hours have been undergone. We further recommend that the use of this punishment should be restricted to cases where the prisoner has been guilty of repeated and wilful violations of any prison rule and where, in fact, his conduct is evidently due to contumacy. With these limitations and safeguards the majority consider that the use of this form of punishment will be safe and that, as has been said, its retention is necessary.

Period for imposition of fetters.

231. Turning to the three forms of punishment connected with fetters, we are opposed on general principles to the long periods for which link-fetters and bar-fetters can at present be imposed. We feel that it is desirable that as far as possible punishments for jail offences should not extend over lengthy periods of time during which the prisoner may have repented of his offence and be willing to amend his conduct in future. In such a case it is obviously unnecessary to continue the punishment. If, on the other hand, the punishment has failed of its effect, and the prisoner repeats his offence, there is no difficulty in re-imposing the same or inflicting another punishment. For these reasons we recommend that the maximum period for which link-fetters and bar-fetters can be continuously imposed should be reduced to three months in each case.

Separate, cellular and solitary confinement.

232. The third main class of punishments includes those known as separate confinement, cellular confinement and solitary confinement. Of these the maximum period for the first is six months, for the second fourteen days, and for the third seven days. For reasons similar to those noticed in the preceding paragraph, we think that, in the case of separate confinement, the maximum period of six months is too long. It is desirable that as far as possible punishments for prison offences should be so devised that the offender may be purged of his offence as soon as possible and go back to the ordinary jail routine with a fresh chance of behaving well. If he again commits himself, he can be

*Sir Alexander Cardew and D. M. Dorai Rajah of Pudukottah.

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awarded a fresh punishment. In practice the more experienced superintendents do usually allow a prisoner a *locus penitentiae* after he has undergone a month or two of separate confinement and if he promises amendment, but this cannot always be counted upon. We recommend, therefore, that the maximum period of separate confinement that may be awarded at one time be reduced to three months. We also recommend that the third form of punishment of this type, *viz.*, solitary imprisonment, should be abolished because in practice it cannot be carried out and because the second form, *viz.*, cellular imprisonment, supplies all that is necessary. In clause (12) of section 46 of the Prisons Act the word "cellular" should then be substituted for the word "solitary."

Penal diet.

233. Under the head of penal diet it is provided by the Act that the restriction of diet shall be in such manner, and subject to such conditions regarding labour, as may be prescribed by the Government. It is doubtless desirable that the actual dietary to be adopted should vary with local custom and should therefore be determined by the provincial Government concerned. But we do not see any sufficient reason for local variation in the rules regarding the liability to labour during the period of penal diet. This seems to be a matter in which uniformity throughout India is desirable. At present in one Province a prisoner undergoing penal diet is entirely exempt from any tasked labour, in another he is exempt only from the forms of labour which are classed as hard or medium, while the Jail Manual in a third Province provides that there shall be no reduction in task during the period of penal diet. We prefer the middle course, and accordingly recommend that no prisoner while undergoing the punishment of penal diet shall be required to do either hard or medium labour but shall be liable to perform such light form of labour and for such number of hours daily as the medical officer may, in each case, approve.

Change of labour.

234. One of the forms of punishment authorized by section 46 of the Prisons Act is change of labour to some more irksome or severe form. It is no doubt usual in imposing this punishment to fix some period for which the punishment is to last, so that the prisoner may get a fresh chance of behaving well at the expiry of that period. This, however, is not provided for in the Act and we think it is desirable that it should be expressly laid down. We recommend, therefore, that in clause (2) of section 46 after the words "change of labour" the words "for a stated period" should be inserted.

Combination of punishments.

235. Section 47 of the Act contains certain restrictions on the award of punishments in combination with one another. There appear to us to be certain omissions and certain defects in this section. In the first place, we think that an addition should be made prohibiting the award of penal diet in combination with standing handcuffs and of cross-bar fetters with standing handcuffs or with bar-fetters. But apart from this we think that the section is defective in that, though it prohibits the award of certain punishments in combination for any

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one offence, it does not prevent the award of several punishments at the same time for several offences. Thus, if a prisoner is guilty first of refusal to work and then, when brought up before the superintendent, of insolence, there is nothing in the section to prevent his being awarded penal diet for the first offence and whipping for the second, or separate confinement and solitary confinement or in fact any two punishments for any two offences. It seems to us that the restrictions which are imposed by section 47 on the award of punishments for a single offence should apply to the award of punishments in combination for more than one offence if the award is made at the same time. Moreover, some provisions seem to be required to prevent the infliction of certain punishments contemporaneously with those of a continuing character, even if the award is made at different times. A prisoner who is undergoing penal diet should not be liable to undergo at the same time whipping or standing handcuffs. Similarly, the punishment of standing hand-cuffs ought not to be carried out at the same time as cross-bar fetters nor should cross-bar fetters be combined with bar-fetters. There is, on the other hand, no objection to a prisoner who is undergoing a period of fetters of any kind being sentenced to such forms of punishment as change of labour, gunny clothing or forfeiture of privileges under the remission system or penal diet.

Prison offences.

236. Turning from the subject of punishments to that of prison offences, we have but few amendments to suggest in the rules which were framed in Appendix II to Home Department Resolution No. Jails-500-510, dated 31st August 1896. Our chief recommendation relates to the first offence there dealt with, namely, "(1) Talking during working hours or talking loudly, laughing or singing at any time after having been ordered by an officer of the jail to desist." One of our number* advocates the introduction of the English rule under which unnecessary talking at all times renders the prisoner liable to report, though this may be relaxed under definite conditions in the case of long-term prisoners who have completed a certain portion of their sentence. The remainder of the Committee do not think that it is necessary or desirable to prohibit talking at all times and are convinced that such a prohibition cannot in practice be effectually enforced in this country. They consider, moreover, that the existing clause which forbids talking during labour should be modified; it is impossible to prevent men in a factory or in a workshop or in the garden from talking; on the other hand, a prohibition of talking on parades can be enforced and is desirable in the interests of discipline. It is accordingly recommended that clause (1) should be revised so as to read as follows: "(1) Talking at unlocking, at latrine or bathing parades, when in file, and at locking-up parade, and at any time when ordered by an officer of the prison to desist, and singing or loud laughing or loud talking at all times."

Minor amendments regarding offences.

237. Certain minor amendments in the rules regarding offences which are contained in the Appendix referred to in the previous paragraph are also called for, namely:—

(*i*) in clauses (4) and (6) the word "official" should be omitted before "visitor";

*Mr. N. G. Mitchell-Innes.

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(*ii*) a proviso should, in our opinion, be inserted after clauses (5) and (6) providing that no prisoner shall be punished for any complaint made, or answer given, to a visitor unless with the concurrence of the visitor ;

(*iii*) in clause (25) the word " neck-rings " should be omitted as we have recommended the abolition of neck-rings ;

(*iv*) a specific provision should be introduced excluding books, or letters, possessed with due authority, from the lists of prohibited articles which appear in most Jail Manuals.

Section II.—The use of Irons as a Means of Restraint and for Security.

Jail Committee of 1889 on diversity of practice between Provinces.

238. Thirty years ago Drs. Walker and Lethbridge in Chapter XIV of their Report on jail administration in India had some strong remarks on the diversity of practice which they found then to exist between the several Provinces in the use of fetters and other irons for safe custody. After citing instances of this divergence in procedure they remarked : " The result of these extreme differences in practice is to render judicial sentences most unequal in severity. A sentence of rigorous imprisonment to be passed in a jail of Madras or of Lower Bengal means a very different thing from the same sentence if ordered to be undergone in a jail of the Punjab or of the North Western Provinces and Oudh," and they went on to recommend the general adoption of the rule then in force in Madras, under which no prisoner, except a convict sentenced to transportation should, during the first three months of his sentence, be made to wear fetters for safe custody unless the prisoner was violent or was believed to contemplate escape. " We are convinced," they said, " that with an efficient and reliable establishment and an intelligent system of guarding there is no risk involved in carrying out the above rules. It very rarely happens that irons prevent the escape of a prisoner from the interior of a jail if the watch and ward of the jail be careless and perfunctory."

Orders of Government of India.

239. The Government of India in paragraph 8 of Mr. C. J. Lyall's letter No. 659-668, dated the 16th September 1889, which was addressed to all local Governments, agreed with the Committee's remarks and considered that the Madras rule required no alteration and was preferable to those in force elsewhere. The Government of the Punjab replied that in the insecure state of the Punjab jails a wide discretion must be given to superintendents of jails to impose fetters whenever necessary for the safe custody of prisoners, and the Government of Burma made a similar reservation in regard to jail camps and temporary jails. Most local Govenments, however, accepted the views of the Commissioners, and the

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Government of the North-Western Provinces and Oudh in paragraph 6 of letter No. 3799, dated the 24th November 1890, specifically said that orders had been issued prescribing the introduction of the Madras rule as to the use of fetters as approved by the Government of India.

Present position in the United Provinces.

240. Although under the orders of the Lieutenant-Governor here referred to, the rule suggested by Drs. Walker and Lethbridge duly appears in Chapter XXXV, of the Prison Manual of the United Provinces, a number of other rules have been appended which are so loosely framed as practically to neutralise any effect which the rule approved by the Government of India was intended to produce. Thus, all convicts sentenced to transportation are ordered to be kept together in one or two of the strongest barracks of the jail ; they are absolutely prohibited from leaving their enclosure and lest they should get possession of any tools likely to facilitate their escape, they are to be employed only " on some light but constant labour " ; the superintendent is empowered to fetter any prisoner sentenced to transportation by merely certifying that he is specially dangerous ; and the general attitude of the rules is summed up in the remark that " safety is to be regarded as over-riding every other consideration." In the face of such authoritative directions it is not surprising to find that the abuses which were condemned by the Commissioners of 1889 are still in full force. The transportation prisoners are not only fettered wholesale for long periods but are chained together at night by a belchain which is attached to a staple fastened in the wall or ground, a device the resort to which Drs. Walker and Lethbridge described as " a grave indictment against the efficiency of the establishments " of the United Provinces. Indeed, their remarks at page cxi of the Appendix to their report are as true now as they were then. " It is clear, " they wrote, " that the authorities here have no confidence in the usual means employed in other Provinces of guarding prisoners. This can only be attributed to the want of a proper establishment of warders and a properly organised system of guarding." We would add that the plan of keeping all the more dangerous prisoners together is, in our judgment, wrong and has been generally abandoned elsewhere. The rule debarring these long-term convicts from being given any work other than light labour, such as the twisting of fibre in which we found them employed, is contrary to sound principles of jail administration, and the mixing together of habituals and non-habituals, which we found practised in some jails of the United Provinces owing to the plan of concentrating all transportation prisoners together, is quite indefensible. Another rule which is open to much objection is that which requires that all prisoners working outside the jail shall be fettered. On the whole, we are of opinion that both the rules and the practice of the United Provinces on this subject require thorough revision. We have not overlooked the fact that the crime of dacoity is far more prevalent and serious in the United Provinces than in other Provinces of India, but we think that this should be met by the provision of secure buildings and adequate staff rather than by the present method.

Present position in the Punjab.

241. In the Punjab, on the other hand, where the principles laid down by the Government of India in 1889 were not at the moment accepted, it has since been

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found possible to give effect generally to them. We were agreeably surprised to find that in the jails of this Province which we visited there was far less use made of fetters as a means of restraint than in the United Provinces. As the class of prisoner received in the jails of the United Provinces can hardly be supposed to be more difficult to manage than those received in the Punjab, the practice in the latter Province strengthens us in the opinion that the methods in use in the United Provinces are susceptible of alteration without any undue risk.

Rules recommended for intramural prisoners.

242. We accordingly recommend that the following rules should be adopted in all Provinces in regard to the use of fetters for safe custody inside a regular jail :—

"(1) No prisoner inside a jail, other than a camp jail or temporary jail, should be fettered as a means of restraint except on the ground that the prisoner is violent, or dangerous, or unless he has escaped or has attempted to escape or has made preparation to escape. Provided that prisoners under sentence of transportation may be fettered while confined in a district jail, or while collected in a central jail pending deportation."

"(2) If the superintendent considers it necessary to impose fetters on any prisoner under the last preceding rule, he shall record the number and name of the prisoner, the date when fetters were imposed and removed, and his reasons for considering the use of fetters necessary."

Rules recommended for extramural prisoners.

243. As regards the use of fetters in the case of prisoners employed outside the main gates but on jail premises, such as the garden-gang, the sweeper-gang and the like, we consider that the practice of imposing fetters is quite unnecessary if the prisoners are properly selected. It would evidently be unwise to send out for such work a member of a jungle tribe or a hill-man near the hills, but superintendents of jails may be presumed to exercise due discretion in the choice of prisoners for such extramural employment. In the case of prisoners who are sent beyond the jail premises, we think the same principle should ordinarily apply. Prisoners whose unexpired sentences exceed nine months would not generally be chosen for inclusion in such gangs. If, in special cases, it is necessary to include such prisoners, the superintendent should have discretion to impose light fetters, but we think that it is, as a rule, undesirable that prisoners should be habitually marched through the public streets in fetters.

The belchain.

244. As regards the use of the belchain, or chain for fastening prisoners together and to the ground, we endorse all that the Commissioners of 1889 wrote. Prison officers of long experience agree in condemning this device. The use of the belchain makes it very inconvenient for a prisoner to answer the calls of nature while thus fastened by a chain which also secures the whole row of men in

the same barrack, while obviously all considerations of decency are impossible under such conditions. We were told that on the occasion of an epidemic, such as the recent outbreak of influenza, the evils of the belchain were particularly noticeable. If a man fell ill at night, it was impossible to remove him without unchaining the whole row or barrack and cases occurred where dead men were found alongside the living. We are strongly of opinion that the use of this device should be prohibited except as a strictly temporary measure when men are placed in insecure huts or tents outside a permanent jail, as, for instance, on the occasion of an outbreak of cholera. Even then it is objectionable and its use should be restricted as far as possible, but in any jail which has a regular wall round it, we consider that resort to the belchain is unjustifiable, even when men are, owing to overcrowding, kept in tents or verandahs.

Use of the belchain in Burma.

245. It came to our notice that at some jails in Burma prisoners undergo the usual period of quarantine in a building outside the main wall and that as these buildings are not regarded as secure the prisoners are here fastened together by a belchain. We cannot think that any local Government is justified in confining prisoners, whether inside or outside a jail, as a permanent arrangement, in buildings so insecure that resort to this barbarous method of detention is necessary, and we think that, where this is at present the case, the local Governments concerned should be urged to provide proper buildings.

Section III.—Outbreaks and Escapes.

Rewards for recapture of escaped prisoners.

246. The existing rules on these subjects seem to us to be adequate and to call for remark only in one respect, namely, in regard to the scale of rewards offered for the apprehension of escaped prisoners. This scale differs widely in different Provinces. Moreover, in most Provinces the system has been adopted of graduating the reward in accordance with the length of the prisoner's sentence. This hardly seems a sound criterion. A better test of the reward to be given would, we think, be found in the circumstances of the escape and recapture, the degree of exertion taken or danger run by the person recapturing the prisoner, the physique of the prisoner and the degree of resistance he offered and similar considerations. It seems obvious that the recapture of a short-term prisoner may involve as long a chase or as arduous a struggle as the recapture of a long-term prisoner. For these reasons we recommend that in all Provinces superintendents of jails should be authorised to pay a reward fixed on a consideration of all the circumstances but in no case exceeding Rs. 100, for the recapture of any escaped prisoner, irrespective of the prisoner's sentence, and that, in the same way, the Inspector-general of Prisons should have authority to sanction an enhanced reward not exceeding Rs. 250 in each case. For any larger reward the sanction of the local Government should be necessary.

CHAPTER XI.

REFORMATORY INFLUENCES IN PRISONS.

Section I.—Remission.

Existing system.

247. One of the witnesses who gave evidence before us, himself an unsparing critic of prison administration in this country, declared that "the Indian remission system is the most perfect in the world." Another witness, an Indian jailor of experience, remarked that it is "by far the most powerful incentive to reformation" in Indian jails. Opinion was practically unanimous as to the great value of the system, and a large balance of evidence was in favour of the view that it is appreciated by all classes of prisoners, even the habitual.

Extended application recommended.

248. The main object of remission being to promote good conduct and to encourage habits of industry, it should logically apply to all convicted prisoners in jails. But it would obviously be useless to grant remission on a very short sentence, say seven days, and hence the point at which the grant of remission should start must be determined arbitrarily. In Great Britain the limit has been fixed at one month, but in that country it is possible to secure a higher standard of clecical aid so that the calculation of the date of release as affected by remission can safely be left in the hands of a clerk. At the salaries available in India this is not so. Both jailor and superintendent must check the calculations and satisfy themselves that the date of release is correct. It is essential not to burden these officers with too much clerical work. To do so would only result in the duty being performed in a mechanical manner, and until the size of Indian jails is considerably reduced, we do not think it is desirable to apply the remission system to sentences of less than six months. We are all agreed that the present limit of one year is too high and should be reduced, and we should be glad to see the system extended to sentences of three months and over, if the difficulty we have named above could be got over. For the present, however, we recommend the substitution of the words "six months" for "one year" in rule 4 of the rules laid down in Home Department Resolution No. 161-172 (Jails) dated 25th June 1908.

Increase of remission recommended.

249. Under rule 6 of the rules in that Resolution the amount of ordinary remission is fixed at one day per mensem for conduct and two days per mensem for work and industry. According to this scale, a prisoner can earn only three

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days' remission a month, or a remission equal to one-tenth of his sentence. Most witnesses who dealt with this matter agreed that the scale of ordinary remission should be made more liberal. In Great Britain a prisoner can earn a remission equal to one-sixth of his sentence in a local prison and one-fourth in a convict prison. In that country, however, special remission is not provided for by the rules, and we think it will be sufficient to grant in future four days per mensem, two days for conduct and two days for industry. We would therefore recommend that rule 6 be amended by the substitution of " two " for " one " in clause (*a*).

Remission while in hospital, etc.

250. The explanation to the same rule lays down that a prisoner who by reason of being at court, in transit, in hospital or in the invalid gang, is absent from work for the period of one whole calendar month shall be debarred from earning remission for that month under clause (*b*) of the rule. While this provision may be logically maintainable, we think that it is liable to operate harshly in individual cases and that it is regarded as unfair by the prisoner. We would, therefore, propose to abrogate it so far as regards any prisoner who is prevented from carrying on work by causes beyond his own control. In the case of prisoners in hospital or on the invalid gang it is, however, necessary to guard against the risk of encouraging the common tendency to malinger and shirk work. In these cases it should be for the medical officer to recommend whether remission for industry should be given or withheld. This follows the English practice. We would accordingly propose to redraft the explanation to rule 6 is as follows:—

"*Note.*—A prisoner who is unable to labour through causes beyond his own control, as by reason of being at court, in transit from one jail to another, in hospital or on an invalid gang, shall be granted remission under clause (*a*) of this rule if his conduct prior to and during the period in question has been such as to deserve such grant. He shall also be entitled to the grant of remission under clause (*b*) on the scale earned by him during the previous month if he has been in prison during that term; if not, at the rate of two days per mensem. *Provided* that if his absence from work is due to his own misconduct in jail, as for instance if he is being prosecuted for a jail offence, no remission under clause (*b*) shall be awarded for the period of absence, and provided also that if he is in hospital or on an invalid gang, no remission under clause (*b*) shall be granted unless the medical officer certifies that the prisoner's absence from labour is due to causes beyond his control and is in no way caused by any action of the prisoner himself taken with a view to escape work or to get into or remain in hospital. "

Forfeiture of remission and exclusion from remission system.

251. In a rule which was added to the general body of the remission rules by Home Department Resolution No. 1058-C.-1071-C. (Jails), dated the 22nd December 1914, it is laid down that a prisoner, who is convicted of certain specified offences committed after admission to jail, including those dealt with under section 52 of the Prison Act, shall not only forfeit all remission earned by him

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up to the date of that conviction, but shall also be ineligible to earn any ordinary remission for a period equal to the term of imprisonment to which he is sentenced for the specified offences. It has been pointed out to us that the effect of this rule is to inflict on the prisoner two punishments in addition to that imposed by the court and that so far as regards cases dealt with under section 52 of the Prisons Act, the proviso to that section expressly lays down that no prisoner shall be punished twice for the same offence. Apart from this objection, we are not in favour of a rule by which the two punishments of forfeiture of all remission earned and of temporary exclusion from the remission system are inflicted automatically and without regard to the actual circumstances of the case. Experience has shown that cases of hardship from this rule may occur, and we think that the application of forfeiture and exclusion should be discretionary and not mechanical. Further, we doubt whether it is wise except in rare and exceptional cases to exclude a prisoner, even temporarily, from the rewards and inducements to good conduct which the remission system supplies. We recommend, therefore, that the rule should be amended so that the infliction of forfeiture of past remission and of exclusion from future remission should be imposed only with the sanction of the Inspector-general. Moreover, the reference to cases dealt with under section 52 of the Prisons Act must, we think, be omitted in view of the proviso to that section. The rule will then run:—

"If a prisoner is convicted of an offence, committed after admission to jail, under sections 147, 148, 152, 224, 325 or 326 of the Indian Penal Code, or of an assault committed after admission to jail on a warder or other officer, the remission of whatever kind earned by him under these rules up to the date of the said conviction may, with the sanction of the Inspector-general of Prisons, be cancelled, and he may, by a special order of the Inspector-general, be declared ineligible to earn any ordinary remission until a period has elapsed equal to the term of imprisonment which under the sentence of the court he has to suffer for any of the above specified offences."

Special remission.

252. Rule 10 of the remission rules approved in Home Department Resolution No. 161-172 (Jails), dated 25th June 1908 provides that any prisoner eligible for remission who commits no prison offence for a year shall be awarded 15 days' ordinary remission in addition to any other remission he may earn. This lump grant is found to be a very valuable incentive to good conduct and industry, but under the rule, as framed, the period of one year must be reckoned from the first day of the quarter following the date of the prisoner's last prison offence or sentence. The consequence is that a prisoner may have to serve nearly 15 months without an offence before he becomes eligible for the lump grant. It has been urged on us that this provision is liable to operate unevenly and harshly, that it is not understood by the prisoners themselves and that it constantly gives rise to enquiry and complaint. The object of the rule was presumably to simplify work by providing that the question of the lump grant should come up for consideration only once a quarter, but in practice it has not worked satisfactorily. We, therefore, recommend that the rule in question be altered by the substitution of the word "month" for the word "quarter." We also recommend that offences punished merely by a warning shall not be regarded as interrupting the period

of good conduct rendering a prisoner eligible for a lump grant and with this object that a note be added to this rule to the following effect:—

"For the purposes of this rule prison offences punished only with a warning shall not be taken into account."

Eligibility for special remission.

253. It came to our notice in the course of our enquiries that some doubt exists among jail officers as to whether special remission may be granted to prisoners who are not eligible for ordinary remission. The rule expressly says "any prisoner" but it was suggested that this could only refer to prisoners under the remission system. In order to remove this misapprehension, we recommend that in rule 15 of the rules sanctioned in Home Department Resolution No 161-172 (Jails), dated 25th June 1908, the first two lines should read as follows:—

"Special remission may be given to any prisoner, whether entitled to ordinary remission or not, other than a prisoner undergoing a sentence referred to in rule 3."

Continuance of system recommended.

254. In Rule 4 (2) of the rules laid down in the Home Department Resolution above referred to, it will be necessary to limit the mention there made of simple imprisonment to simple imprisonment of the (*a*) kind, if our recommendation in paragraph 130 of this Report is accepted. We would also draw attention to the question of the classification of life convicts for the purposes of the remission system. We were informed in the Central Provinces that this question is there left to be decided by the superintendent of the prison. We think that it should in all cases be dealt with by the convicting court and, in the event of any omission on the part of that authority, that it should be referred to the Government for orders. Subject to these amendments, we recommend that the remission system as laid down in the rules already referred to should be continued.

Section II.—Gratuities to Prisoners in Prison.

Recommendation of Jail Committee of 1888-89.

255. The Jail Committee of 1888-89 in Chapter XXXII of their Report recommended that five per cent of the net profits of the manufacturing department of each Province should be placed at the disposal of the Inspector-general of Jails to enable him to provide gratuities for well-conducted and deserving prisoners. No reasons were given in support of this recommendation, nor were the grounds on which it was based very apparent. The Government of India were inclined to think that what was needed was not so much a system of rewarding industrious prisoners, who by earning marks could secure a substantial reduction of their sentences, as one for giving to indigent prisoners when released subsistence allowance sufficient to enable them to reach their homes, and they decided to leave

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the matter to local Governments. In two or three Provinces some small action in the direction indicated by Drs. Walker and Lethbridge has taken place.

English system.

256. Under the English rules for convict prisons, ordinary convicts are no longer granted any gratuity, but convicts in the long sentence division*, who are necessarily a comparatively small number, receive a gratuity under the following rules. Every such convict is allowed to earn, by special industry combined with good conduct, a gratuity at the rate of 2*s.* 6*d.* for every 240 marks in the case of males and for every 180 marks in the case of females. Half of these earnings may be spent monthly on the purchase through the prison authorities of certain approved "articles of comfort and relaxation," a list of which is hung up in each prisoner's cell. The other half of the sum earned is applied for the prisoner's benefit in other ways. It will be seen that under these rules the amount of the gratuity permissible depends on the number of marks earned, which in its turn depends on conduct and industry. It thus supplies a further stimulus to good behaviour and hard work over and above that furnished by the mark or remission system but does not constitute a regular wage or even a percentage on the outturn of work by the prisoner.

American system.

257. In the United States of America, the principle of the gratuity has been carried a good deal further. In some States such as New York, the gratuity takes the form of a percentage on the estimated value of the prisoner's work. In other States, *e.g.*, Indiana, each prisoner employed under the contract system is allotted a regular amount of work to do but for any outturn produced in excess of that task he receives payment at a scheduled rate. This rate represents the full value of the extra work done and thus amounts to a wage for all work in excess of the fixed task and may be quite a substantial sum, as much as 30 dollars a month. In other States again, such as Minnesota, the practice has been adopted of paying the prisoner regular wages ranging from 15 cents up to over a dollar a day for all work done. The wages belong to the prisoner who is allowed either to remit them to his family or to let them mount up for his own benefit at release. The warden of one prison which did business in 1918 to the value of over 2¼ millions of dollars stated that they had paid over seventy-five thousand dollars in that year in wages to prisoners. He added "as far as discipline is concerned we have had very little trouble, the men being so busy and so profitably employed that they do not bother with infraction of rules to any extent." We found indications of a growing opinion in America in favour of giving prisoners substantial remuneration for their work. Amongst other reasons it is strongly supported as helping a prisoner to provide for his family while he is in prison. It is also held to be at once remunerative to the State and reformatory in respect of the prisoner. At the institutions we visited, the prison officials were strongly in favour of the principle and it certainly seemed to us that where the prisoners were receiving a reward in proportion to their outturn, they were working with a cheerfulness and interest very diffrent from the slackness and listlessness we noticed where this stimulus was absent.

**Vide* Secretary of State's Rule 1, dated the 27th May 1915, with respect to divisions of penal servitude.

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Principle of gratuity approved.

258. We may say at once that we are not prepared to accept the opinion of those persons who contend that a prisoner in jail has a right or claim to be paid for his labour. This appears to us to overlook the fact that the convict is undergoing a period of punishment for acts done against the State and that during that period he has forfeited the ordinary rights of a free man and must do what he is told. But, though repudiating all claim or right on the part of the convict, we think it may still be wise to furnish him with some motive for industry more effective than the fear of punishment and more immediately operative than the hope of expediting his release by remission. It is generally agreed that greater reliance can be placed on rewards than on punishments and that punishments are particularly inefficacious in stimulating men to industry. On the other hand, it is in the interests of the State, *i.e., of* the tax-payer, to secure the largest and best return from prisoners' labour. It is also beneficial to the prisoner that his faculties should be kept alert and not allowed to become dulled by disuse while in jail and that he should be encouraged to attain or maintain a high standard of industry. One of the worst features of imprisonment is generally agreed to be its depressing or deadening effect, and properly devised means of combating this tendency are much needed. Steady work is, moreover, in itself a reformative influence. Habits of industry may be formed in jail which will send a man out markedly fitter for free life than he was when he came in. Remission of sentence, though a most useful instrument, needs some imagination before its effect is realized, and the provision of an additional stimulus cannot but be of value. We, therefore, approve of the principle of giving the prisoner a further reward proportionate to his exertion and of rendering it available for him in as tangible and concrete a form as is consistent with jail discipline.

Gratuity to be granted for work in excess of standard task.

259. In order to carry out this principle we recommend that every prisoner on tasked labour shall be allowed a money gratuity for any outturn done in excess of the fixed task in proportion to the excess turned out. In our Chapter on labour we have recommended that the tasks enforced within each Province shall be carefully revised and shall be made as uniform as possible, local conditions being duly allowed for. The gratuity to be granted for outturn in excess of the task must be determined locally and with a view to local conditions. We consider, however, that it should be fairly liberal ; the grant of one anna or one and a half annas a month, as now made in some Provinces, can have little practical effect in stimulating industry. We should regard a rupee per mensem as a more reasonable sum.

How standard task should be fixed in certain cases.

260. We think it is also desirable that an attempt should be made to provide that the system of gratuities operates with as little unevenness as possible. It would be inequitable that a professional weaver coming into prison and placed in the weaving shed should straightaway be able to earn a gratuity, while the jail taught prisoner by his side is unable with a much greater expenditure of effort and industry to do more than the prescribed task. We wish also to avoid putting

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a premium on the habitual by rewarding him for the knowledge or dexterity he has acquired through frequent sentences passed in jail. We think that in both these classes of cases the superintendent should fix a much higher standard of outturn before the gratuity can be earned.

Gratuity to prisoners employed in jail services or untasked work.

261. A different difficulty arises in dealing with the case of prisoners who, though not on tasked work, show such industry and attention to duty as would certainly enable them to do more than the task if a fixed task were laid down. This difficulty has already been felt in the practical working of the existing rules, and we learnt in one jail that the cooks had applied to be removed from the kitchen to the weaving shed in order to be able to earn more remission. No rule can be framed which will entirely remove this difficulty and the matter must, we think, be left in the hands of the superintendent, who should be empowered to grant gratuity to any individual prisoner not on tasked work, if he is satisfied that the industry and exertion of the prisoner have been such as would have entitled him to the concession, if he had been employed on a form of labour which is susceptible of being tasked.

Disposal of gratuity.

262. The gratuity earned by the prisoner under the proposed system should be the prisoner's own property and should not be liable to be forfeited as a jail punishment. It should, we think, be open to the prisoner to exchange the whole or any part of this gratuity for remission, if he wishes to do so, the exchange being at the rate of one day's remission for every half rupee of gratuity earned. It should also be open to the prisoner at his option either to remit the whole or any part of the gratuity to his family or to allow it to accumulate till his release. Finally, the experiment should be tried of allowing the prisoner to expend not more than one half of the gratuity on approved comforts purchased through the jail authorities in the manner adopted for long-term prisoners in English convict prisons.

Purchase of articles of comfort out of gratuity.

263. As regard this last method of utilizing the gratuity, some of us feel some doubt as to whether it is wise to allow the introduction into prison of additional articles of comfort such as *gur* or *jaggery,* curds, fruit or tobacco. It is pointed out that *ex hypothesi* these articles are luxuries because the jail dietary provides all that is essential and it is urged that it would be most dangerous to give any colour to the suggestion that a prisoner in jail is better off than the honest man outside. On the other hand, it is argued that it is only the prisoner who has shown special industry and produced a more than average outturn who will enjoy this privilege, while it is impossible, at least under existing conditions, to prevent the introduction of prohibited articles into jail. A large proportion of jail offences consist in the possession of "contraband." Experienced jail officials in India are generally agreed that a prisoner who can command money can ordinarily obtain such articles as tobacco through the warders and the opinion was expressed by more than one superintendent that it would be preferable to regulate and control what

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cannot altogether be prevented. It is believed also that the possibility of earning the means of purchasing such comforts would be a powerful incentive to industry and that the withdrawal of such a privilege would be an exceedingly effective punishment. Lastly, the experience of the special class at the Thana Jail and of the Sind and Deccan Gangs is pointed to as indicating that the power to earn such additional comforts has a great effect in promoting good conduct and in making prisoners industrious. We are agreed that the matter is one that can best be judged by practical trial and we suggest that carefully conducted experiments continued over at least two or three years should be made in selected jails in each Province and that the extension or discontinuance of this arrangement should depend on the results thereof. In the conduct of such experiments measures must be taken to restrict the benefit of the concession to those men who have earned it by showing outturn in excess of the prescribed task, or who are adjudged worthy of the concession by a special order of the superintendent.

Financial effect of proposals.

264. It may possibly be apprehended that the grant of gratuities to prisoners in the manner here indicated will throw an additional burden on provincial funds. We think, however, that if the rules are properly framed, no such result can follow, because the gratuity should be always so regulated as to be less than the value of the extra outturn by which it is earned. Moreover, the concession will only be admissible to those who show an outturn materially in excess of the prescribed task or whose industry is equivalent to such an outturn.

Section III.—Interviews and Letters.

Reformative value of interviews and letters.

265. The maintenance of the prisoner's home-ties is an important matter and should be the subject of careful consideration by every officer in charge of a prison. Nothing produces a worse effect on a prisoner than to feel that his friends and relations have cast him off and it is very desirable that undue difficulties should not be placed in the way of communications between a prisoner and his family. Experienced prison officers have told us of the beneficial results which not unfrequently follow from interviews. It is sometimes possible to get a recalcitrant convict's relatives to speak to him on his conduct with good effect and apparently hardened prisoners will often improve in behaviour after an interview with their relations, especially if the prisoner's children are brought to the interview. We are, therefore, disposed to regard interviews and also communications by letter as a valuable reformatory influence and we consider that the rules on the subject should be made as liberal as possible.

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Limitations necessary.

266. In this matter, however, as in others, it is necessary to take into account the effect which any change in rule may have on the work falling on the jail staff. As a jail officer must be present at every interview (except those of civil prisoners) and as every letter addressed to or by a prisoner must be censored before being forwarded, it is clear that any large increase in interviews or letter-writing will throw a correspondingly increased burden on the jail staff. With the limited establishment available in an Indian prison this is an important consideration and has forced us to recommend the maintenance of more definite restrictions on the number of interviews and letters to be permitted than might otherwise be necessary.

Rules should be uniform.

267. The subject of interviews and letters is not one in regard to which local conditions have any very important bearing and we consider that the rules on this subject should be uniform throughout India.

Increase in letters and interviews recommended.

268. We recommend that the interval at which a convicted prisoner shall be allowed, provided his conduct is good, to have an interview or to send and receive a letter shall be fixed at three months, instead of four or six months as is now generally the case. We are unable to recommend more frequent exercise of the privilege for the reason already noticed.

Discretion of superintendent.

269. We consider, however, that the superintendent of the jail should be invested with full discretion to relax the general rule and to allow interviews or letters more frequently, whenever in his opinion sufficient reason exists. It is impossible to define all the circumstances in which such relaxation would be suitable, but we think that the rules might give a few examples for the guidance of superintendents.

Interview rooms.

270. It came to our notice that in many jails no suitable places for carrying out interviews exist and we recommend that in every jail a properly constructed interview room shall be provided at or near the main gate.

Model rules.

271. There are many other minor respects in which the existing rules on the subject of interviews and letters differ in the several Provinces of India. It would take too long to enumerate all these points and to give reasons in each case for the view at which we have arrival. We think it better, therefore, to annex to this Chapter a model set rules which we recommend may be communicated for adoption in all Provinces.

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Section IV.—Education, Prison Libraries and Supply of Books and Periodicals.

Provision of facilities for education in jails.

272. The place which education should occupy in the scheme of reformation of adult criminals is not clearly defined. It would be easy to exaggerate its importance and not difficult altogether to deny its utility. Without entering into a discussion of this point, it can, we think, hardly be doubted that ability to read, write and cipher is an advantage to a man in any walk of life and therefore may be of assistance to a prisoner in gaining an honest livelihood on release. On this ground it seems desirable that educational facilities should be provided in jail for such prisoners as are capable of benefiting by them. But experience leaves no doubt that after a certain age few persons of the classes ordinarily received in jail are able to benefit by literary education. Compulsory education of prisoners in England is now, we understand, limited to persons of 25 years of age and under. Similarly in India we are convinced that it would be of no practical use to attempt to teach the elderly convict. Accordingly we recommend that while provision for elementary education should be made in all central and district jails, it should be given for the present to prisoners not over the age of 25. Possibly this limit may be raised later or a higher limit may be at once adopted, should any local Government so desire. Meantime, if any prisoner over the age of 25 expresses a desire for education, he should be given an opportunity of joining the educational classes, but it should be clearly provided that no such prisoner will be allowed to continue to be taught unless he shows both a genuine desire to learn and a capacity to benefit by the teaching.

Limitations.

273. We think that the compulsory education to be provided in prisons should not go beyond the elementary stage. If any prisoner desires to go further, he should be given the necessary books and any available assistance, but it would not be possible under existing conditions in India to provide regular teaching in secondary classes. The instruction to be provided should, wherever possible, include a certain amount of manual training. The advice of the educational authorities should, we think, be obtained both as to the scope of the teaching to be given and as to the qualifications to be required in the teaching staff. It should be a rule that the hours devoted to education should be so arranged as not to interfere with jail labour.

Libraries and reading.

274. In addition to the provision of instruction for such prisoners as are capable of benefiting by it, we think it very desirable that jails should contain a supply of books suitable for issue to those prisoners who can read. Jail libraries where they exist at all are at present generally very inadequate. We recommend that a small library be provided in every central and district jail. The initial cost would not be great and the recurring outlay required for maintenance would be trifling. It should be placed in charge of an assistant jailor or possibly of an educated convict, if one is available, and prisoners should be

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allowed to borrow and exchange books freely under such rules as may be prescribed locally. Encouragement should be given to any prisoner who shows an inclination to spend his spare time in reading, and in special cases, if a man gives evidence of a desire to pursue a particular line of study, he should be provided with any books reasonably required for the purpose. The books in jail libraries should be both in English and in the local vernaculars. They should not be exclusively religious and moral works, but should include books which will promote a taste for reading. A list of suitable books might be prepared with the help of the officers of the Education Department. Approved periodicals may be included, but we do not recommend the supply of the ordinary newspaper. Any prisoner who abuses the privilege of borrowing books from the library or who is under punishment may be deprived of the privilege of borrowing any except educational books for such time as the superintendent may direct. When it is possible to provide lectures on topics which combine interest with instruction, we think that it should be done, and that all well-behaved convicts should be allowed to attend. Such lectures should be given preferably on Sunday or, if on other days, at such hours as will not involve interruption of the work of the jail.

Occupation of the prisoners between lock-up and sleeping time.

275. The usual practice in Indian jails is to lock the prisoners up in wards or cells before dark, the hour varying from 5-30 to 6-30 according to the time of the year. As they are not unlocked until day-break the next morning, they are in their cells or wards for a period of between ten and twelve hours, and it is probable that a good many prisoners do not sleep throughout this period. The hours between lock-up and 8-30 or 9-30 P.M. are those in which time must hang most heavily on the prisoners' hands and in which illicit practices and harmful conversation are most likely to occur. It is very desirable that some method of providing occupation for these hours should be found, and with this object we suggest that, wherever possible, a portion of each sleeping-barrack should be cut off and turned into a recreation room, where prisoners would be allowed to read, either to themselves, or aloud, to play quiet in-door games, or to receive education. A paid officer should be present to keep order and to prevent abuses such as betting, singing, bad conduct or conversation. The room should be properly lighted and supplied with any necessary adjuncts. It should be separated from the sleeping-ward by a batten door. The privilege of using the recreation room should be conditional on good behaviour and should be liable to be withdrawn as a punishment. In cellular jails these arrangements would hardly be possible, and reliance would there be placed mainly on lighting the cells properly so as to enable the inmate to read, when he knows how to do so, or to occupy himself in some other way. It might perhaps be possible to provide a cellular enclosure for each row of cells to which the inmates might have access, and one of our number* would like to see experiments made in this direction, though the objection on the score of expense is recognised. The majority are not in favour of this plan, some† on the ground of the risk of contamination involved, and some‡ on the ground of practical difficulties in administration and expense.

*Sir James DuBoulay.

†Sir Alexander Cardew and Mr. Mitchell-Innes.

‡Colonel Jackson, Sir Walter Buchanan and D. M. Dorai Rajah of Pudukottah.

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Females.

276. In the foregoing recommendations we have had in view the case of the adult male convict. We would add that in the exceptional case of a female prisoner who is able to read arrangements should be made to enable her to get books from the jail library should she desire to do so. It will hardly, we fear, be possible to arrange for regular instruction in the case of female convicts, except where special female prisons are provided.

Section V.—Religious and Moral Instruction and Religious Observances in Prison.

Existing practice.

277. The existing Jail Manuals of the several Provinces in India as a rule contain no directions on the subject of moral instruction of prisoners or religious ministration, except certain rules regulating the work of chaplains and the admission of Christian ministers. A practice has, however, grown up of late years in several Provinces of allowing voluntary workers belonging to non-Christian communities to give addresses on moral and religious subjects. In Burma, the jails are more or less regularly visited by *pongyis* who preach on Sundays to attentive audiences. In Madras, Christian and non-Christian lecturers have been attached to various jails to give moral instruction. A similar step has been taken in the Central Provinces and Bombay and elsewhere in the case of juvenile jails. The degree of success attained has necessarily varied with the interest or enthusiasm shown by these voluntary workers, but we nowhere heard that their admission to jail had had any untoward results or had been followed by any developments unfavourable to discipline or to the regularity of the jail administration.

Opinions of witnesses.

278. A small number of witnesses of the more conservative type, usually belonging to Provinces where these experiments have not been made, deprecated the introduction of moral and religious teaching into jails. They expressed doubts as to the possibility of finding suitable and trustworthy persons to carry on the work of giving moral and religious instruction and they dwelt on the difficulties likely to arise from the presence in jail of members of differing sects and religions. The majority of witnesses, however, while not ignoring these difficulties, advocated an attempt being made to overcome them and to provide regular moral and religious teaching in jails. This was undoubtedly the prevailing opinion expressed by Indian witnesses and evidently represents the trend of Indian opinion on the subject. We noticed also that this view was by no means confined to witnesses belonging to the outside public but was strongly held by those Indian witnesses, themselves generally experienced officials, who belonged to the Jail Department.

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Provision of religious and moral instruction recommended.

279. Our opinion closely coincides with that of the majority of the witnesses who came before us. It is undoubtedly true that the existence in India of various more or less antagonistic sects and religions makes it less easy to provide instruction in religion than it is in countries such as Burma, where practically all prisoners belong to one faith. This also renders it specially necessary that the selection of the teachers to be admitted to jail should be made with great care, so that only persons of thoroughly sound character and discretion shall be chosen. But we certainly think that endeavours should be made to provide religious and moral instruction for all prisoners in jail. The existing differentiation in favour of Christian prisoners can hardly continue and we think that no prisoner ought to be cut off from communication with the ministers of the religion to which he belongs. Experience seems to indicate that the difficulties arising out of sectarian differences will not prove so great or so serious as some observers have expected, and one of our number* would even be prepared, following the English precedent, to make attendance at religious services compulsory, irrespective of the differences which exist between Hindu sects.

Appointment of ministers of religion.

280. We doubt whether this would be safe or whether compulsory attendance at any religious services is desirable, but we recommend that it should be incumbent on local Governments to appoint for every central and district jail, in which any considerable number of prisoners of such religions is confined, a Hindu, a Muhammadan, a Buddhist or Christian minister who may if necessary be paid a retaining fee for his services. It may be possible in some cases to combine these posts with one of the educational posts contemplated. It will be the duty of the minister thus appointed to perform, as far as may be, the duties of a chaplain in an English prison, that is, to hold regular meetings at which addresses of an ethical but unsectarian character shall be delivered and to interest himself in the moral improvement of individual prisoners. It should be a condition of the post that all political teaching or discussion shall be rigorously excluded. Such appointments should ordinarily hold good for a year but should be terminable at any time at the discretion of the Government and the holder of such posts should not be regarded as an ordinary government servant with claim to leave and pension. It is essential that there should be power to get rid promptly of any teacher who has in any way shown himself unfit for the post.

Admission of other ministers.

281. In addition to the ministers thus regularly appointed by the State, we recommend that any *bona fide* religious teacher of some persuasion, other than that of the appointed minister, who applies for permission to minister to the prisoners in a jail and who is approved by the superintendent and the magistrate of the district as a suitable person, may be allowed to have access for the purposes of moral and religious instruction to the prisoners of his own persuasion. Such ministrations must be subject to such conditions as to time, place, duration, etc., as the superintendent considers necessary.

*D. M. Dorai Rajah of Pudukottah.

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Access of ministers to prisoners.

282. No minister should be allowed to have access to any prisoner who does not belong to his own denomination unless the prisoner voluntarily and spontaneously expresses a wish to see such a minister, in which case the matter should be reported to the Inspector-general for orders. It would obviously be improper to allow jails to be used for purposes of proselytising, and the existing rules which are quite clear on this point should be strictly maintained.

Provision of places of worship.

283. We think that it will be quite possible to provide in existing buildings for such services as are contemplated in the foregoing recommendations. The provision of chapels, temples or mosques within jail walls would involve many difficulties. If a building were provided for one sect, a similar privilege might be claimed by others, and in a country in which so many different religions exist, the provision of a separate place of religious worship for each would obviously be impossible. Such a step is not generally advocated even by those witnesses who most strongly support the need for moral and religious teaching. We do not therefore recommend that religious buildings be provided in jails, but would suggest that it should be laid down that the local authorities shall in each case make suitable arrangements in order to enable religious services to be held. This has already been accomplished in those Provinces where religious services are now permitted, and no difficulty is likely to arise in making similar arrangements elsewhere.

Religious observances.

284. The Jail Manuals of all Provinces contain a rule prohibiting undue interference with the religious or caste prejudices of prisoners and most of them also embody specific instructions regarding such matters as the retention of the sacred thread by Brahmans, the exemption of Sikhs and some other classes from head-shaving, the allowance of fasting in the case of Muhammadans and the like. We received, however, several representations from Muhammadans and Sikhs regarding matters not at present touched upon in the rules, and these will now be briefly noticed.

Muhammadans.

285. The Muhammadans' first complaint had reference to the prayers to be said daily, weekly (on Fridays) and on certain special occasions during the year. We consider that, as far as is possible without serious interference with prison routine, arrangements should be made to allow of these religious duties being regularly performed. It is clear that it is not practicable to allow prisoners prisoners to congregate for prayers to the disturbance of jail labour and discipline, nor does the practice of the Muhammadan public show that this is ordinarily essential. There are, however, some difficulties now experienced by Muhammadans in the performance of their devotions which we think could, and should be removed. One of the conditions which must be observed before prayer can be offered is that the body should be properly covered and it was represented to us that the short trousers (" shorts ") which are in vogue in some Provinces

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render this impossible. We think that these short trousers are on other grounds unsuitable and in our Chapter on clothing we have recommended that they should be made longer. This will remove the difficulty experienced in this respect. Water for ablution and a mat, unless a suitable substitute is already available, should be provided in cells or wards where Muhammadan prisoners are confined, so as to enable them to say their prayers night and morning and they should be allowed reasonable time for the performance of these rites if they desire it. It may not be possible to arrange for the mid-day prayer or for the special prayers on Fridays and holidays without undue interference with jail routine, but officers in charge of jails should do what is possible to meet the wishes of devout Muhammadans in this matter.

Muhammadans and the *Ramzan*.

286. As regards the provision to be made for the requirements of Muhammadan prisoners in the month of *Ramzan*, we are advised that it is the ordinary custom of the poorer classes of the community to keep over from the night before the food required to be eaten before dawn during the fast, and we accordingly recommend that Muhammadan prisoners should at this season, if they desire it, be given a double ration at evening, so that they may keep a portion and eat it early next morning. This is already the practice in many Provinces. We cannot recommend that any relaxation of labour should be allowed during *Ramzan*. In ordinary life, the free population does not, and could not, give up their daily work or occupation during the fast, and to allow such a concession to prisoners in jail would be to put them in a better position than the honest poor outside.

Sikhs.

287. The request received from representatives of the Sikh community referred to two main points, namely, the desire of the Sikhs to be allowed to wear a turban instead of a cap and the demand that they should be allowed to retain their religious symbols. As regards the first of these requests, there appears to us to be no strong reason why it should not be admitted. The issue of a turban instead of a cap to Sikh prisoners would involve but small extra expense and the loss in uniformity would not be greater than is already sustained in allowing prisoners of this religion to retain their hair and beards unclipped. As regards the symbols, we see no objection to Sikh prisoners being permitted to wear the iron bracelet or wrist-ring, the short drawers and the comb, but the other two symbols, namely, the quoit and the miniature dagger, are both made of steel or iron and are undesirable objects to entrust to prisoners in jail.

Miscellaneous.

288. A few minor points may be noticed. The Jail Manuals of some Provinces lay down that Roman Catholic convicts may be allowed to wear scapulars and to retain a rosary, that Lingayats may be allowed to retain and wear the *lingam* wrapped in a piece of cloth or worn in a silver box round the neck, that Hindus may retain the top-knot and Jews of certain persuasions the lock on each side of the face in front of the ear. We see no

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serious objection to these concessions and think that they might be generally granted at the discretion of local Governments. The wedding ring or other marriage symbol of female prisoners should not be removed. Cooks should, as far as possible, be Brahmans or Hindus of other higher caste. We agree generally with the principle that interference with genuine religious or caste prejudices of prisoners should be avoided, but it is necessary to take precautions that this principle is not made the cloak for frivolous complaints or for attempts to escape from jail labour or discipline. It is useful to provide, as is done in many provincial Jail Manuals, that if a superintendent feels any doubt as to the validity of any plea advanced by a prisoner on grounds of caste or religion, he should refer the matter for the orders of the Inspector-general, whose decision shall be final.

ANNEXURE TO CHAPTER XI.

RULES REGARDING INTERVIEWS AND LETTERS.

(Referred to in paragraph 271.)

A.—General Rules.

I. (1) Every newly convicted prisoner shall be allowed reasonable facilities for seeing or communicating with his relatives or friends with a view to the preparation of an appeal or to the procuring of bail and shall also be allowed to have interviews or write letters to his friends once or twice, or oftener if the superintendent considers it necessary, to enable him to arrange for the management of his property or other family affairs.

(2) Every prisoner committed to prison in default of payment of a fine or of finding security under Chapter VIII of the Code of Criminal Procedure shall be allowed to communicate by letter and to have interviews at any reasonable time with his relations or friends for the purpose of arranging for the payment of the fine or the furnishing of security.

(3) Every prisoner under sentence of transportation and about to be transported shall be allowed to have one or more interviews with his relatives and friends before transfer from the jail to which he was committed when sentenced.

(4) Every prisoner under sentence of death shall be allowed such interviews and other communications with his relatives, friends and legal advisers as the superintendent thinks reasonable.

II. In addition to the privileges granted in the last preceding rule every convicted prisoner shall be allowed to have an interview with his friends and to write and receive a letter once in three months during the term of his imprisonment—provided that the exercise of this privilege shall be contingent on good conduct and may be withdrawn or postponed by the superintendent for bad conduct.

Note (*i*). A letter merely arranging an interview shall not be counted as a letter for the purposes of this rule.

Note (*ii*). A prisoner may, with the permission of the superintendent, substitute a letter with reply for an interview, or *vice versa*.

III. The superintendent may at his discretion grant interviews or allow the despatch or receipt of letters at shorter intervals than provided in Rule II or in spite of the prisoner's misconduct if he considers that special or urgent grounds exist for such concession, as for example, in the event of the prisoner being seriously ill or on the occurrence of the death of a near relative, or if the friends or relatives have come from a distance to see the prisoner and it would inflict an undue hardship on them to refuse an interview, or if the prisoner is nearing release and wishes to secure employment, or for other sufficient cause. Matters of importance, such as the death of a relative,

Annexure to Chapter XI.—Rules regarding Interviews and letters.

may also be communicated at any time by the friends of a prisoner to the superintendent who will, if he thinks it expedient, inform the prisoner of the substance of the communication.

IV. No convicted prisoner shall be allowed to have an interview or to receive or write a letter except with the permission of the superintendent, which shall be recorded in writing.

V. Applications for interviews with prisoners may be oral or in writing at the discretion of the superintendent. If the prisoner is not entitled to an interview, the applicant shall be informed at once.

VI. The superintendent shall fix the days and hours at which all interviews shall be allowed and no interviews shall be allowed at any other time except with the special permission of the superintendent. A notice of the interview hours shall be posted outside the jail.

VII. Every interview shall take place in a special part of the jail appointed for the purpose, if possible at or near the main gate. Provided that interviews with female prisoners shall, if practicable, take place in the female enclosure. Provided also that if a prisoner is seriously ill, the superintendent may permit the interview to take place in the hospital, and a condemned prisoner shall ordinarily be interviewed in his cell. Provided further that the superintendent may, for special reasons to be recorded in writing, permit an interview to take place in any part of the jail.

VIII. Every interview with a convicted prisoner shall take place in the presence of a jail officer, who shall be responsible that no irregularity occurs and who shall be so placed as to be able to see and hear what passes and to prevent any article being passed between the parties.

IX. Any interview may be terminated at any moment if the officer present considers that sufficient cause exists. In every such case the reason for terminating the interview shall be reported at once for the orders of the senior officer present in the jail.

X. The time allowed for an interview shall not ordinarily exceed 20 minutes but may be extended by the superintendent at his discretion.

XI. Every convicted prisoner and every unconvicted criminal prisoner shall be carefully searched before and after an interview.

XII. No letter shall be delivered to or sent by a convicted prisoner until it has been examined by the superintendent or by the jailor or other officer under the superintendent's orders, but no unnecessary delay should be allowed to occur in delivery or despatch. If a letter is written in a language unknown to the superintendent, he shall take steps to procure a translation before forwarding the letter. No letter written in cipher shall allowed. The superintendent may withhold any letter which seems to him to be in any way improper or objectionable, or may erase any improper or objectionable passages.

XIII. If a letter is addressed to a prisoner who is not entitled under the rules to receive it, it may, unless the superintendent determines to communicate it under Rule III, be withheld and kept in the superintendent's custody until the prisoner is entitled to receive it or is released, when it shall be delivered to him, unless it is improper or objectionable ; or it may be returned to the sender with an intimation that the prisoner is not entitled to receive it.

XIV. A convict may retain any letter which has been delivered to him with due authority unless the superintendent otherwise directs, or may ask that it be kept for him.

Annexure to Chapter XI.—Rules regarding Interviews and letters.

XV. Writing materials including non-official postcards shall be supplied in reasonable quantities to any convict who has permission to write a letter and all letters shall be written at such time and place as the superintendent may appoint. A fixed day of the week, preferably Sunday, shall be set apart for letter writing. Non-official postage stamps at the public expense shall be provided for prisoners' letters.

XVI. A superintendent may refuse to allow any interview to which a prisoner would ordinarily be entitled under these rules but in every such case, if in his opinion it is inexpedient in the public interests to allow any particular person to interview a prisoner or if other sufficient cause exists, he shall record his reasons for such refusal in his journal.

XVII. Any prisoner who abuses any privilege relating to the holding of an interview or the writing of letters or other communication with any person outside the jail shall be liable to be excluded from such privileges for such time and may be subjected to such further restrictions as the superintendent may direct.

B.—Special Rules relating to Under-trial and Civil Prisoners.

XVIII. Unconvicted criminal prisoners and civil prisoners shall be granted all reasonable facilities at proper times and under proper restrictions for interviewing or otherwise communicating either orally or in writing with their relatives, friends and legal advisers.

XIX. Every interview between an unconvicted prisoner and his legal adviser shall take place within sight but out of hearing of a jail official. A similar concession may be allowed by the superintendent in the case of an interview with any near relative of the unconvicted prisoner.

XX. When any person desires an interview with an unconvicted criminal prisoner in the capacity of the prisoner's legal adviser he shall apply in writing, giving his name and address and stating to what branch of the legal profession he belongs and he must satisfy the superintendent that he is the *bona fide* legal adviser of the prisoner with whom he seeks an interview and that he has legitimate business with him.

XXI. Any *bona fide* confidential written communication prepared by an unconvicted criminal prisoner as instructions to his legal adviser may be delivered personally to such legal adviser without being previously examined by the superintendent. For the purpose of this rule the term legal adviser means a legal practitioner within the meaning of Act XVIII of 1879.

XXII. Civil prisoners may see their friends and relations at such times and under such restrictions as the superintendent may appoint and the presence of a jail officer shall not be necessary.

CHAPTER XII.

PRISON HYGIENE AND MEDICAL ADMINISTRATION.

Section I.—Diet, Cooking, Distribution of Food, and Connected Matters.

Details regarding jail dietaries.

289. The diet scales in force in the several Provinces have been arrived at after careful and expert examination and have for the most part been found by long experience to serve their purpose well. We do not therefore think it necessary to go into a detailed examination of them but there are certain points to which we desire to draw attention:—

(*a*) The researches of Major D. McCay, I.M.S., into jail dietaries, which have been published in the Scientific Memoirs of the Government of India, have shown that a diet which includes more than 20 ozs. of rice is in excess of physiological requirements. In Bengal, Bihar and Orissa, Burma and elsewhere some of the dietaries still involve the issue of quantities of rice in excess of 20 ozs., and we recommend that the question of a reduction should be considered in the light of Major McCay's researches.

(*b*) In the Madras Presidency the grain ration of a labouring male convict has in recent years been reduced from 24 ozs. to 20 ozs. and the reduction has been followed by an improvement in health and a decrease in bowel complaints*. We think that in the light of this experience the question whether a grain ration of more than 20 ozs. is necessary, might be considered in other Provinces. As a possible alternative, a higher ration might be reserved for prisoners on those forms of labour which are classed as "hard" and a smaller ration might be assigned for the forms of labour which are classed as "medium" and "light." This principle obtains in Bombay.

(*c*) The ration of *dal* (split pea) for a labouring male convict is in some Provinces 6 ozs. per diem, in others 5 ozs. and in others 4 ozs. We consider that the issue of this article should in no case exceed 5 ozs. a day and that it should not exceed 4 ozs. except in the case of dietaries, in which the grain ration consists wholly of rice, or in the case of prisoners who are employed on *bona fide* hard labour.

(*d*) The vegetable ration in most Provinces in India has been fixed at a minimum of 6 ozs. per head per diem, but in Bombay it is 8 ozs.

* *Vide* Appendix VI.

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and in view of the importance of the vegetable ration in the maintenance of sound health in a jail we recommend that it should be raised to 8 ozs. everywhere.

(e) We recommend also that the dietaries in all Provinces should be expressed in pounds and ounces and that the use of local measures for expressing the dietaries should be discontinued. The weights actually used in jails are lbs. and ozs. and it is better that the dietaries should be expressed in those terms. This becomes of some importance when such sub-divisions as $\frac{2}{3}$, $\frac{1}{20}$ or $\frac{1}{50}$ or $\frac{1}{128}$ of *chittak* are involved, as the *chittak* does not exactly correspond with any weight avoirdupois.

Importance of variety in jail dietary.

290. Apart from the constituents of the dietaries, we wish to invite special attention to the importance of introducing as much variety as possible into the food provided for prisoners. In Bihar and Orissa, for example, the grain ration is now wheat at one meal and rice at the other, thus affording a useful variety and it may be possible to devise some similar method in other Provinces. With this object the kind of *dal* should, where possible, be constantly changed, and for the same reason it is desirable that as far as possible the vegetable supply each day should have one predominating ingredient, such as radish one dry, brinjal another and so on, so as to give a distinct flavour to the day's ration. In Provinces where various antiscorbutics are customarily used, the flavour of the curry may be varied by the substitution of mango or lime, etc., for tamarind. This may sound an unnecessary refinement but when the fact that prisoners have to eat the same food day after day for years is taken fully into account, the importance from the point of view of health of providing some degree of variety, without departing from the essential structure of the dietary, will be realised.

Power to alter dietary.

291. In all the provincial Jail Manuals it is laid down that while no change in the sanctioned dietary of the jails may be made without the sanction of the Government or of the Inspector-general of Prisons, the medical officer has full discretion to recommend the modification of the diet of any *individual* prisoner on medical grounds. In one provincial Manual (that of the Punjab) this power has been extended so as to empower the medical officer to alter the diet not merely of an individual but of a *class* of prisoners, the only safeguard provided being that when the dietary of " any large section " of the jail is altered, the fact is to be reported to the Inspector-general. The circumstances in which it is necessary to alter the dietary of any class of prisoners are not of frequent occurrence and we doubt there being sufficient reason to empower the medical officer to do more than alter the diet of individual prisoners except in an emergency, such as the prevalence of an epidemic, or in conditions of general ill-health evidenced by serious general loss of weight or a general tendency to scurvy with ulcerated gums. If the medical officer should then think it necessary to recommend the alteration of the diet of any class of prisoners, such charge should, we

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think, invariably be reported immediately by the superintendent to the Inspector-general.

Vegetables in jail dietary.

292. In connection with the vegetable ration, the importance of which we have already referred to, there are several details to which we think it advisable to invite attention:—

(*a*) While in most jails it is generally possible to provide a full supply of vegetables from the jail garden during the cold weather and the rains, it is often exceedingly difficult to maintain this supply in the dry months. We suggest therefore that in all Provinces it should be made a rule that such antiscorbutic vegetables as are suitable for the purpose should be stored during the season of plentiful supply for issue in the following hot weather.

(*b*) In most Provinces the rules permit of a free supply of vegetables from the jail garden being made to the jailor and other jail subordinates when the garden is yielding a surplus, but we certainly think that such issues should cease if any vegetables have to be purchased for the jail, and that the rule on this subject in the provincial Jail Manuals should contain a stipulation to this effect.

(*c*) Some Jail Manuals lay down that the jailor shall be made to pay from his own pocket the cost of all vegetables and condiments purchased for the use of prisoners, unless he can prove to the satisfaction of the Inspector-general that the deficiency in the supply obtained from the jail garden was not due to his neglect. Recoveries of this character are, in our opinion, unsound in principle, even if the rule is applied with entire fairness and discretion. The proper way to deal with a jailor who neglects his jail garden is to refuse him promotion, or, if necessary, to reduce him. The presence in the Jail Manual of a rule such as is here referred to leads to the practice of planting large areas with inferior vegetables, as a protection against the risk of being subjected to recovery. We recommend that this rule should be cancelled and it should be laid down instead that the jailor (or the deputy jailor, should he be in charge of the garden) shall be responsible to the superintendent that the full supply of vegetables required for prisoners' consumption shall, as far as possible, be grown in the jail garden and that when vegetables are bought, an explanation of the failure to obtain the supply from the garden shall be furnished by the superintendent to the Inspector-general.

Importance of good cooking and preparation of food.

293. We are not sure that it is sufficiently recognized by all jail officers that the cooking of the prisoners' food is almost as important for the maintenance of a good standard of health as the composition of the dietary. In the matter of cooking we found marked differences between jail and jail, even within the

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same Province. We wish to lay stress on the importance of good cooking and to this end on the necessity for constant and intelligent supervision over the cooking arrangements and the cooks. In this connection we would draw special attention to the following points:—

(*a*) In some jails which we visited the sifting of the flour was distinctly less satisfactory than in others. In the Bombay Presidency a sieve with not less than 900 meshes to the square inch is employed, and the nearer this standard is worked up to, the better.

(*b*) The proper kneading of the flour has a marked effect on the quality of the cooked food and we recommend that all jails in which food is issued in the form of cakes (*chupati*) a kneading machine should be used. We saw in a good many jails the dough being kneaded by hand, a task which requires a very great expenditure of labour and which in consequence is most likely to be imperfectly done unless there is the closest supervision.

(*c*) Great care must be taken that the iron plate on which the cakes (*chupati*) are baked is not too hot and that sufficient time is allowed to enable the cakes to be cooked thoroughly and yet not burnt. In some jails we found the cakes (*chupati*) burnt on the outside but raw within, a state of affairs very liable to produce indigestion and bowel complaints. The cooking range should be so arranged that the heat passes on from one pot to another before reaching the flue.

(*d*) In order that adequate supervision should be exercised over the cooking, the bulk of the food should be divided into two meals, one issued in the forenoon and the other in the evening. This is already the practice in all Provinces except the Punjab and the North-West Frontier Provinces, where half the bread, half the oil and the whole of the *dal* are required by rule 915 of the local Manual to be issued in the early morning. We were unable to learn any reason for this practice. It involves the necessity of cooking being carried on throughout the greater part of the night, when adequate supervision cannot be provided, and we recommend that this rule should be altered and the early morning meal restricted to a small issue of flour or other ration as is customary in other Provinces, while the balance should be equally divided between the mid-day and evening meal.

Distribution of food.

294. It is further desirable that as far as possible the prisoners' food should be served out and reach them warm. Proper carriers, with fly-proof covers, and an air-space to retain the heat can easily be provided for this purpose. In the Rangoon Central Jail, it is the practice to assemble all prisoners in the central circle, where each man receives his food at a small issuing window. This procedure involves delay, nor is it desirable thus to mass several hundreds of convicts at one point. We recommend that the food should be sent in suitable

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carriers and in properly regulated quantities to each yard and that the prisoners should await it there. In each yard, measures enabling the correct amount of rice or curry to be measured out to each man should also be provided.

Places for feeding prisoners.

295. It is necessary further that in each yard some place should be provided in which the prisoners can be fed when it is too wet or too hot for them to eat their food in the open. We do not think that it is necessary to go to the expense of building special feeding sheds. A verandah along the sleeping barrack or workshop will usually suffice, but it is not desirable that meals should be eaten inside either the barrack or the workshed.

System of purchasing rations and their storage.

296. There is one further point connected with the rationing of a jail which is of great importance and that is the system on which the supplies of rations are purchased. Drs. Walker and Lethbridge in Chapter XXIII of their Report have some very pertinent remarks on this subject. They drew particular attention to the objections to the system of paying for supplies on the basis of the rates fixed or reported by the tahsil officials, but we found this method still followed in some of the jails which we visited in the United Provinces. We certainly think that it should be put an end to. The most advantageous method of buying the necessary supplies of the larger articles of rations is, in our opinion, to lay in at the cheapest season of the year stocks sufficient to last till the next year's crop can be safely used. These stocks should be bought either by tenders in writing called for by public advertisement or by public auctions of which full notice has been given in the bazars. Before holding an auction or opening the tenders the superintendent should ascertain by local inquiries, by reference to official price-lists or other means what the ruling prices are. Samples to fix quality are of course essential. In the event of combination among the merchants, it is always open to the superintendent to postpone his purchase and to take steps to break up the combine by bringing in tenderers from other markets. The successful carrying out of this system involves the provision of adequate storage accommodation, but this is, we think, well worth while in view of the large sums involved. Properly built, rat-proof godowns should be provided, in which grain and other supplies can be stored in bags, not in bins or pits, as if these are used the contents cannot be checked without an altogether excessive expenditure of time and trouble.

Section II.—Clothing, Bedding and Connected Topics.

Scale of clothing for convicts.

297. Under the provisions of the Jail Manuals in force in most Provinces in India, a convicted prisoner, male or female, is given only one suit of clothes although in many Provinces, at certain seasons of the year, principally in the

cold weather, he also has additional garments such as a blanket coat. We think, however, that it should be the standing rule in all Provinces to supply every convict with two sets of clothing. Such an issue does not in the long run involve much, if any, increased expenditure, because the prisoner can only wear one suit at a time, so that no greater wear and tear on the clothing is caused. Moreover it is for two reasons important that the convict should possess two suits, namely, to enable him to have a dry suit to put on when he gets wet in the rain and to give him something to wear when his clothes have been washed. We recommend, therefore, that two sets of clothing be issued to every convict, and in the case of extramural gangs it may, in regions of heavy rainfall, be desirable to issue extra clothing during the rains. But it is not necessary to duplicate every article that is supplied to prisoners. In the case of males, they should be given two cotton coats and two pairs of cotton trousers ; of the other articles, namely, the cap, *langoti* and towel, one will suffice. Females should have two cloths or petticoats and two bodices. They should also be given a reasonable number (three or four) of necessary towels, and a comb each, and we think that female prisoners should be allowed the use of a looking-glass, one in each cell and one or two in each ward. We also recommend that toothsticks should be provided in sufficient numbers for both sexes.

Issue of *langotis*.

298. We were informed that by a recent order the Inspector-general of Prisons, Punjab, directed that the issue of a *langoti* to each convict should be discontinued and that *langotis* should only be supplied for use during bathing. Thus the *langotis* issued to a particular yard are used in turn by all the prisoners in the yard. There are, we think, obvious objections to the common use of such an article as a *langoti*, and we recommend that the practice previously in force should be restored and a *langoti* issued to every prisoner as part of his prison suit.

Supply of towels.

299. We consider that a towel should similarly be supplied to each prisoner as part of his kit and that this practice should be introduced in those Provinces where it is not now in force.

Trousers to replace shorts.

300. In many Provinces the practice exists of issuing "shorts" and not "trousers" to male convicts. This practice has been specially objected to by Muhammadan witnesses and there are other reasons why it is inexpedient. We recommend that in future trousers should be supplied to all male convicts instead of shorts and should reach to within four inches above the ankle.

Distinctive clothing for habituals.

301. In order that the habitual convict may be easily and readily distinguished and any mixing of habituals and casuals detected at a glance, it is necessary that the clothing of the habitual should be different from that of the casual. In most Provinces the habitual wears a cap of a special colour, but this is not alone sufficient as prisoners frequently discard their caps. We recommend,

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therefore, that a distinctive mark be woven into the clothing issued to the habitual, such as, for instance, the broad blue line which is customary in the jails of the Bengal Presidency.

Wrist-ring, ankle-ring and neck-ring.

302. If this is done, the use of an iron wrist-ring present placed on habituals in some Provinces, is unnecessary and should be discontinued. For similar reasons we would abolish the ankle-ring except in the case of prisoners employed extramurally. Finally, several witnesses have drawn our attention to the objections to the iron neck-ring for suspending the prisoner's ticket. This iron neck-ring is said to be inconvenient at night and also to be liable to misuse. We think that the use of such rings should certainly be abolished. The ticket can instead be attached by a tab to a button on the left breast, as is the plan in Bombay.

Clothing of prisoners attending courts.

303. It is in our opinion desirable that, when a convict appears before a court either as a witness or as an accused person, he should appear in ordinary clothes and not in convict garb, and we recommend that this should be made the rule in all Provinces. Nor should a prisoner appear in court in fetters, a practice which is both unfair and degrading to the prisoner and which will, we hope, be generally abolished. If in any exceptional case a prisoner is so dangerous that it would be unsafe to produce him in court without fetters, the police should make an application to the court requesting permission to produce the prisoner in fetters.

Hospital clothing and bedding.

304. There are one or two other matters that require brief notice. Every prisoner in hospital should be given a proper mattress and a pillow. Many of the mattresses we saw in use were so thin as to allow the iron lathes of the bed to be felt through the mattress, thus increasing the possibility of bed sores. All hospital clothing and bedding should bear a distinctive mark to prevent its being mixed with other articles, and we commend the practice which is followed in Bengal of weaving a red line into the cloth intended to be issued for hospital use. The blankets can be marked by a label sewn on. In some Provinces clothing and bedding used for patients suffering from dysentery and tubercle and venereal diseases also specially marked, but this is a point which may be left to the judgment of the individual medical officer.

Section III.—General Sanitary Arrangements.

Need for economy.

305. An immense amount of care and attention has been expended on the general sanitary arrangements of Indian prisons and a very remarkable improvement has been effected during the last half-century. Such shortcomings as

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still exist are mainly due to financial causes—the difficulty of finding funds for desirable improvements. All practical sanitarians in India have to learn the lesson that in a country where public and private resources are limited, they must do the best they can with what money is available. The Jail Department cannot claim to be an exception to this rule and hence economy is an essential consideration in all recommendations on sanitary matters.

Water supply.

306. This point is at once brought home to us when we come to touch on the subject of water-supply. It is hardly necessary for us to insist on the importance of an ample supply of water for drinking and ablution and this has always been recognised. But in some instances the supply is limited by causes which could only be overcome by an expenditure quite beyond the means of the local Governments concerned. All that we feel it possible to lay down is that wherever a municipal water-supply has been or may be introduced, the jail should be connected with the municipal system and thus secure the maximum advantages available in the locality. In the matter of bathing, we consider that it is certainly preferable to have overhead arrangements, where there is a sufficient head of water for the purpose. Taps are liable to get out of order, but a perforated pipe controlled by a single tap at one end is simple and inexpensive. Where the head of water is insufficient for an overhead system, long narrow bathing platforms must be provided, with a central trough so narrow and shallow that prisoners cannot get in but must lift the water on to their persons by tin vessels or otherwise.

Conservancy: detailed points.

307. Similar considerations govern the question of conservancy. The advantages of a water-carriage system are recognised by all, but except in the largest towns, it is too expensive for application to Indian jails. This is also the case ordinarily with the septic tank method and jails in India are therefore in the main compelled to continue to rely on the dry earth system, which has for many years been proved by experience to be inexpensive and effective if properly and carefully worked. There are, however, a few points of detail in this connection which have not been sufficiently recognised in some Provinces and to which we desire to draw brief attention :—

(*a*) In some jails which we visited the amount of latrine accommodation was admittedly inadequate, and we received bitter complaints from ex-prisoners regarding the hardship caused to the jail population by this deficiency. We desire, therefore, to lay down the principle that in every jail yard there must be sufficient latrine accommodation to provide one seat for every six men. Allowing half an hour for the latrine parade, this gives each man five minutes. This should be regarded as the absolute minimum, and if the jail population rises and over-crowding occurs, as has been the case too frequently of late years, additional temporary latrines must be promptly provided. The necessity for this has been overlooked in some Provinces, notably the Punjab.

(*b*) The partitions which divide the seats ought to be high enough to provide a reasonable degree of privacy when the latrines are in use. We shall touch again on this point in our Chapter on prison construction.

(*c*) Every general latrine should have foot-rests. This is not universally the case. This too will be dealt with under prison construction.

(*d*) Water for ablution after resort to the latrine must be provided at or close to it. The practice of requiring the prisoners to walk half across a yard to reach the supply of water is objectionable from many points of view.

(*e*) In all sleeping barracks a cage-latrine, separated from the ward by a narrow interval, with arrangements for delivery outside is, we think, essential. The plan of merely placing vessels in the ward itself, as still to be seen in Madras and elsewhere, ought to be put an end to. The design of the cage-latrine will be dealt with in our Chapter on prison construction.

(*f*) The utensils in cells should invariably be provided with close-fitting covers. The neglect of this arrangement was the subject of complaint by several witnesses who had served a term of imprisonment, especially in the Punjab. These utensils are intended for night use and we have been unable to discover any device for dispensing with their presence in the cell owing to caste prejudices. The rules in most Jail Manuals already provide for the supply of dry earth in cells, but in some cases we noticed that this rule had not been carried out.

Disposal of night-soil.

308. The question of the disposal of nightsoil is a perennial difficulty in jails which, as is the case with most Indian jails, cannot be furnished with a system of water conservancy or septic tanks. The use of incinerators for this purpose has at first sight much to recommend it, but it is open to the great objections that it precludes the use of dry earth in the cells and wards and that it involves the necessity for a large supply of suitable fuel. The practical working of this system involves special difficulties in the rainy season, and we hesitate therefore to recommend it, though we were assured in one or two jails where it is in use that its working was successful. It is thus necessary to continue to follow the trenching method. There is no doubt that if the dry-earth system is not carried out with scrupulous care this is liable to result in the breeding of flies. All that we can recommend is that should flies be numerous in any jail, the superintendent should at once take steps to see whether they are coming from the nightsoil trenches. This he can easily do by netting the trenches with muslin for a few days. If it is found that flies are coming from that source, it is clear that more attention needs to be paid to the carrying out of the nightsoil system. As a further preventive of flies, the plan may be tried of fastening sheets of oiled sacking tightly down over recently closed trenches and covered with a layer of earth. The necessity for tightly ramming down the earth is also evident. If any superintendent finds flies to be prevalent in his jail he should personally investigate the source from which they are coming.

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Disinfection of clothing and bedding.

309. On the subject of disinfection of clothing and bedding, we wish to draw attention to the desirability of the general introduction of disinfection by steam, because boiling is injurious, especially to woollen articles. In large jails a Thresh disinfector or other large steam disinfector should be installed. For smaller jails, where this would be too expensive, the device known as "the Serbian barrel" which was much in use in the field during the war is at once simple and effective, and either it, or a similar contrivance, should be generally introduced. We think also that all bedding should be placed in the sun to air every day.

Lighting.

310. The subject of jail lighting is one of first-rate importance, and bears directly on many of our most important recommendations in other parts of this Report. That the present arrangements for lighting are altogether inadequate is universally admitted. With the exception of three or four large jails, such as the Presidency Jail, Calcutta, the Alipore Central and Juvenile Jails and the Yeravda Central Jail, in which electric lighting has been introduced, jail barracks throughout India are lit by two or three oil-lanterns, hung from the roof or sometimes locked into recesses in the end walls of the barrack, while cells are provided with no inside light but are lit, so far as there is any light at all, by an occasional lantern placed at long intervals outside. The jail yards too often remain in practical darkness and the general arrangements are seriously inadequate. We attach great importance to the improvement of the lighting of jails, and we recommend that in all Provinces the question should be seriously examined. In the case of central jails we think that an electric light installation should everywhere be provided. The cost, though considerable, would not be greater than the importance of the subject demands, and it is well worth considering whether in many cases the supply of an electric installation for the jail could not be combined with one for the local municipality. The backwardness of India in the matter of electric lighting has long been a reproach, and in view of the urgency of the matter from the point of view of jail administration, we trust that the possibility of introducing an electric installation will be pressed on all local bodies concerned. Where a jail lies too far from the town for a joint scheme, we think that the Jail Department should provide its own supply. Each case must be taken up and considered on its merits.

Section IV.—Hospital Administration and the Care and Nursing of the Sick.

Opinions of witnesses.

311. In the evidence which was given before us we received some very severe criticisms of jail hospital administration in India. In one Province the local head of the Medical Department in his written replies to our Interrogatories recorded

the opinion that few of the jail hospitals in that Province could be considered to be hospitals at all in the proper sense of the word, that in many cases they needed complete reconstruction and in almost every jail they required radical alteration. We noticed, however, that in oral examination the same officer expressed the opinion that, barring the loss of liberty, the prisoners in jail are better off and undoubtedly healthier than the free population. He admitted also that as there are in that Province about 3,000 qualified medical practitioners for a population of 42 millions, while in Great Britain there are 45,000 qualified doctors for a population not markedly larger, it would be impossible to provide our prisoners with the same amount of medical attendance as is given in England, without depriving the free population of much needed medical relief. Another officer, himself a medical officer lately retired from the post of superintendent of a central jail in another Province, drew a lurid picture of the horrors of a jail hospital. We were at some pains to investigate the statements made by this witness and we came to the conclusion that there was a good deal of exaggeration in his description. Influenced no doubt by the laudable desire of drawing pointed attention to defects and deficiencies he added so many heightening touches as in the result to convey an impression not in accordance with the real facts.

Progress hitherto achieved.

312. The truth is that many of the hospitals in jails have failed to keep pace with the advance that has occurred during recent years in similar institutions outside. Thirty years ago, when Drs. Walker and Lethbridge wrote their Report, the average mufassal civil hospital was not much, if at all, in advance of the corresponding institution in the jail. But much progress has been made since then in the improvement of the outside hospitals. As funds have from one source or another become available the old dark, unsuitable buildings, often converted from some other use, have been swept away and have been replaced by modern properly designed wards, well lighted and cheerful. Considerable improvements have also been effected in equipment and facilities of all kinds and the general advance has been very marked. Jail hospitals have not shared to the same extent in this advance and many of them remain in the same condition as they were a generation ago. This has naturally led to unfavourable comparisons. It is quite true that in many respects they leave much to be desired and it should, we think, be recognised that every jail hospital ought now to be brought thoroughly up to date both in respect of buildings and equipment. It must, at the same time, not be forgotten that in spite of such defects as may exist in jail hospitals and equipment, the results of the treatment of the sick in those hospitals have been on the whole satisfactory. The results in the treatment of the leading diseases compare favourably with those in the civil hospitals, and the fact that these satisfactory results have been obtained under the existing conditions is the best evidence of the care and attention which have been given by the jail medical staff to their patients.

Defects in equipment.

313. On the subject of hospital equipment we may draw attention to the standard scale laid down in the Jail Manual of the Madras Presidency. The

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list of professional equipment there given no doubt needs revision, but it is under the head of "sundries" that the deficiencies are most apparent. Here the prescribed supply of articles on which the comfort of patients greatly depends, such as feeding cups and bed pans, is quite inadequate. We recommend that this standard scale of hospital equipment be thoroughly revised and brought up to date and that a similar scale be drawn up in every Province in communication with the provincial head of the Medical Department. Definite authority should also be delegated to the medical officer of a jail to purchase locally, in anticipation of sanction, any instruments, drugs, staining agents, etc., that may be urgently wanted. Due measures must, however, be taken to bring such purchases under careful scrutiny so as to avoid waste or extravagance.

Absence of trained nurses.

314. The weakest aspect of the medical administration of jails is by common consent to be found in the absence of any trained or instructed nursing. On this point our witnesses, with one or two exceptions, were practically unanimous. The only nursing at present is that supplied by convict orderlies and even as regards these men no systematic course of training in nursing has been provided. In central jails where there is a large supply of long-sentence prisoners, men can be chosen for this work and kept on it so long that they acquire considerable knowledge of their duties, but in district jails this is not the case, and in this class of jail the absence of proper nursing arrangements is most serious. The question of nursing is indeed a difficulty which is felt in greater or less degree in all hospitals in India, and the ordinary ward-boy found in the smaller civil hospitals throughout the country has had but little more training than the convict orderly and is far from being a satisfactory nurse. In many Provinces, however, this is now recognised and steps are being taken to introduce proper supervision and a better class of attendants.

Provision of trained nurses recommended.

315. It is undoubtedly necessary that some steps should be taken in all Provinces to effect an improvement in the nursing provided in jail hospitals. We consider that wherever suitable paid attendants can be obtained at reasonable cost it is desirable that male nurses should be added to the establishment of every district and central jail. The opinion among our witnesses varied as to whether suitable men could be obtained on the salary (Rs. 20-40) which might be available, but a large number of witnesses answered the question in the affirmative. The men thus recruited as male nurses should, as far as possible, possess a reasonable amount of general education, this qualification being necessarily varied in accordance with the prevailing standard of education in the several Provinces. They should have undergone a period of training in a civil hospital and should satisfy the medical officer as to their general acquaintance with the duties they would have to perform. They should be on a progressive salary, so that there may be an inducement to good service, and they should whenever possible be provided with quarters on the jail premises. At least three such attendants are required, except for the smaller district jails, so that one may be on duty at night and one by day, while the third is available to assist and relieve the others at meal times, on Sundays, or when they go on leave.

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Training of selected prisoners as hospital orderlies.

316. When it is impossible to obtain a staff of free male nurses as contemplated in the preceding paragraph, systematic steps should be taken to select and train suitable prisoners for the work of hospital orderlies. For this purpose men of some education and of long sentence should be carefully chosen by the superintendent and medical officer and should undergo a regular course of training before they are given the position of hospital orderly. A brief syllabus of the training to be undergone should be drawn up in each Province and communicated to the superintendents and medical officers of all central and district jails. When men have been thus selected, trained and appointed, it is important that such inducements should be given as will ensure diligent and faithful attention to the sick. Special remission and gratuity should be liberally granted to those who do well. Men who are detected in irregularities, especially in theft of patients' food, should be at once removed and severely punished. When it is impossible to get paid attendants for a district jail hospital, properly trained and trustworthy convict orderlies should be sent down from the nearest central jail to the district jail, but we hope that this will not ordinarily be necessary, as the presence of long-term prisoners in a district jail is contrary to sound principles. The adequacy of the nursing arrangements both in central and district jails is a matter which should receive the particular attention of inspecting officers, especially of those who possess professional qualifications, when they visit the jails.

Medical attendance at night.

317. It is at night that it is most difficult to ensure that sick patients receive sufficient attention, and in almost all Provinces the measures at present taken to secure this are inadequate. It was formerly a general rule that where there are two sub-assistant surgeons attached to a jail, one of them should sleep each night in the jail. This night duty is naturally far from popular amongst medical subordinates, and in some Provinces the authorities have given way and relaxed or abandoned the rule. Even where the rule is still in force and observed, much of the advantage it is intended to confer on the sick has been, in some Provinces, neutralised by the hospital wards being all locked up at night and the keys kept in a box which cannot be opened without the presence of the jailor. As one representative of the sub-assistant surgeon class actually told us, the medical subordinates, rather than incur the unpleasantness of waking up the jailor, will leave the sick unattended or pass in medicine through the locked gate. To obviate these difficulties we recommend that, whenever possible, prisoners who are so seriously ill as to require medical aid and nursing at night should be kept in a separate ward, of which the sub-assistant surgeon on duty should have the key. If there are no convicts in this ward except persons whose state of health makes escape impossible, the ward need not be locked at all. The rule requiring a sub-assistant surgeon, where there are two or more, to sleep in turn in the jail should be everywhere introduced and enforced. If in any jail there is only one sub-assistant surgeon a telephone should be put up connecting the hospital with his quarters and it should be the duty of the senior hospital orderly on duty to ring up and summon the sub-assistant surgeon if any patient is so ill as to require his attention during the night.

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Open-air treatment.

318. The nursing of the sick is not likely to be so often neglected during the day as during the night, though even here some more systematic arrangements could often be made. In many jails the buildings used as hospitals are dark and depressing and we think that more attention should be given to the advantages of removing the sick, at least for a part of the day, into the open air. The cots should be carried out with the patients on them and placed in the shade either of trees or buildings and they should be moved as the change in the sun's position renders necessary. This procedure, though it involves some trouble on the staff, has a very good effect on most patients. It cannot, of course, be carried out in wet weather, and in treeless compounds it is more difficult than where there are large trees, while in some cases it may be undesirable. But the general principle that the more fresh air a patient can get the better, is one which can hardly be too strongly insisted on.

Cooking for hospital patients.

319. The importance of cooking in connection with the treatment of the sick is a matter of common observation and knowledge. We are of opinion that a great deal more attention should be paid to this matter than is generally the case now. The convict-cooks employed have seldom received any teaching and there is little control exercised to ensure that the food prescribed by the medical officer actually reaches the patients. The need for unremitting supervision over the patients' food should be constantly impressed upon all medical subordinates, one of whom should be given special and individual charge of the hospital kitchen. We recommend also that wherever possible a professional cook should be entertained who will direct and instruct the convict-cooks. The paid cook should be recruited under the same rules as the warder establishment.

Tuberculous cases.

320. Of late years a good deal of attention has been drawn to the treatment of tubercle in jails and in most Provinces special centres have been selected to which cases of tubercle can be removed. We consider it desirable that in every Province either a special jail or specially constructed wards at selected centres should be provided for the accommodation of such cases of tubercle as are fit for removal. But it is not every case of tubercle that can, with benefit to the patient, be sent a long journey to a tuberculosis centre. Advanced cases have a better chance of prolongation of life by not being subjected to the fatigue of such a journey, and for such cases, therefore, a small properly designed separate ward must be provided in every central and district jail. Moreover, in order to counteract the tendency among subordinates to attempt to reduce their mortality rate by hurrying off every case of tubercle, whether fit or unfit, to the special tuberculosis centre, we recommend that every death at that centre shall be debited to the jail from which the patient came, whatever length of time may have elapsed since the transfer.

Transfer to civil hospitals in certain cases.

321. It is obviously impossible to provide special treatment for all classes of disease in every jail hospital, and cases must frequently arise which could

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be best treated at some special hospital or at a fully equipped general hospital. Thus should a female convict be found on admission to be pregnant, it may be desirable, if her sentence is not for a very long term, to send her shortly before delivery to a maternity hospital. Similarly, cases of ophthalmic disease may require to be sent to an ophthalmic hospital ; and though many operations can be performed in the jail hospital if a proper operation room is provided, as is always desirable, cases may occur where the operation is one demanding special surgical skill and nursing, and these should be sent to the local civil hospital. Every case in which a prisoner is thus removed from jail to an outside institution should at once be reported to the Inspector-general who should exercise vigilance to prevent any tendency towards the unnecessary removal of prisoners from jail. In order to legalise the detention of prisoners in any outside institution to which they may be removed on medical grounds, should any legal difficulty be raised, a rule might be framed by each local Government recognising such places to which removal is made, as prisons within the meaning of the Prisons Act or, if that is inconvenient, laying down a form of conditional release to which each prisoner must before removal subscribe. This form should bind the prisoner to return to jail to complete his sentence as soon as he is discharged from the medical institution to which he is being sent.

Minor points in medical administration.

322. A few minor points connected with medical administration may be briefly noticed:—

(*a*) In every central and district jail the hospital should be supplied with a small reference library of standard works on medicine and surgery, and a medical journal should be regularly circulated from jail to jail for the benefit of the medical subordinates.

(*b*) A microscope and accessories should be supplied to every central and district jail.

(*c*) A suitable room for operations and a dark room for eye examination are desirable in every central and district jail hospital.

(*d*) All patients in hospital should be provided with a proper mattress and a pillow (as already noticed under the head "clothing") and with white sheets.

(*e*) In the case of patients suffering from malaria, mosquito curtains should in all cases be provided so as to protect other patients in the same ward from the danger of infection. This use of curtains is generally more effective than the provision of mosquito-proof wards, the good effect of which is too often rendered nugatory by the careless practice of leaving the door open.

(*f*) If an epileptic is placed in a cell, there should be no raised masonry berth, but he should be provided with a mat of a thicker pattern and should sleep on the floor.

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Exercise.

323. The medical officer should see that every prisoner takes such amount of exercise as may be necessary for his health, regard being had to the nature of the labour on which he is employed, the distance between his yard and his work and other similar considerations. This exercise may take the form of drill or physical exercises, if the medical officer so recommends.

Weighments of prisoners.

324. Before concluding our remarks on jail hygiene and treatment of the sick we desire to draw special attention to the subject of the weighment of prisoners. It is usually agreed that the body-weighment often throws valuable light on health, and in the case of a jail we consider that the results of periodical weighment are of the greatest value as an index to the general state of health of the prisoners. The Prisons Act requires that every labouring prisoner shall be weighed at least once a fortnight and we think that the fortnightly weighment should extend to every prisoner, except those who are in hospital and too ill to be moved. For the purposes of these periodical weighments, no form of weighing machine is so simple and reliable as a properly adjusted beam scale supported on a tripod stand or otherwise. A scale of this character can, if necessary, be moved from one part of the jail to another without injury whereas a platform scale is easily put out of order by being moved about. The weighments should be taken on a Sunday, half the jail each week, and an abstract statement, reducing the results to percentages, should be prepared and submitted to the superintendent and medical officer next morning. All prisoners who have lost more than 3 or 4 lbs. since the last fortnightly weighment or more than 7 lbs. since admission to jail should be separately paraded at the superintendent and medical officer's next inspection. Special attention should be given to men who are found on admission to be of poor physique, as a small loss of weight may in such cases be of serious import. The medical officer and superintendent should make a practice of testing the weighments thus recorded by weighing a sufficient number of prisoners after each periodical weighment and comparing the weights so obtained with those recorded by the medical subordinates. Finally, the weighments on admission should invariably be taken in the presence of the medical officer and verified by him, as it is on the correctness of these weights that the value of all subsequent comparisons depends.

Section V.—Overcrowding.

Dangers of overcrowding.

325. We doubt whether the serious effect which overcrowding exercises on every aspect of jail administration is always sufficiently recognised. There is hardly any branch of the administration which does not suffer when overcrowding is allowed to continue and to become chronic. The superintendent, the medical officer, and the other higher officers are over-tasked and therefore unable

to give sufficient time and attention to all details of their duties. The work of the warder staff becomes excessive, guarding becomes lax and efficiency deteriorates. The correct carrying out of the rules regarding the classification of prisoners, such as the separation of habituals from non-habituals, becomes difficult or impracticable. The kitchen which has been designed for the cooking sufficient for 500 or 1,000 prisoners, as the case may be, cannot provide adequately for the cooking, say for 750 or 1,500 prisoners respectively, and in consequence the food has to be hastily prepared, with bad results. The bathing platforms and latrine accommodation become insufficient and the men are forced to cut short their ablutions and to hurry through the latrine parade. The workshop accommodation becomes inadequate, labour cannot be properly enforced and men have to be employed in verandahs and out-houses. The sleeping accommodation ceases to be sufficient and prisoners are kept in worksheds by night as well as by day, or are confined in tents or unsafe sheds, where they are fastened to the ground by the belchain for security. In all directions overcrowding produces bad results, upsets discipline, breaks down classification and generally makes the rules of the Jail Code impossible of observance. Finally, there is little doubt that it greatly increases the liability to pneumonia and dysentery, while modern researches have proved that it is a strongly pre-disposing cause of cerebro-spinal meningitis.

Overcrowding in Bombay Presidency.

326. In view of this long list of evils likely to result from overcrowding we think that it is the clear duty of every local Government to take prompt measures to prevent its occurrence or to remove it when it occurs. Unfortunately this does not seem to have been quite adequately recognised in some Provinces. Of these the worst example is to be found in the case of Bombay. The following figures show the state of affairs in the central and district jails of that Presidency during the five years ending 1918 :—

1	2	3	4	5	6
Year.	Total accommodation.	Total average population.	Total accommodation exclusive of hospital.	Total average population excluding sick in hospital.	Total maximum population on one day.
1914	7,301	9,827	6,641	9,573	12,047
1915	7,275	10,154	6,646	9,950	12,487
1916	7,281	10,762	6,620	10,530	11,898
1917	7,248	9,614	6,587	9,359	12,178
1918	7,248	10,059	6,588	9,748	12,534
Average for the 5 years	7,271	10,083	6,616	9,832	12,229
	72.1 per cent.		67.3 per cent.		

NOTE.—Columns 2 and 4 are exclusive of the accommodation existing in the camp jails of the Deccan and Sind gangs.

It will be seen that there has been throughout these years a deficiency of 27.9 per cent. on the total accommodation and of 32.7 per cent. if hospital accommodation and sick are excluded.

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Bombay Common Prison and Yeravda and Ahmedabad Central Jails.

327. Serious as is the general result among the central and district jails of Bombay taken together, the position in individual jails is much worse. The Common Prison of Bombay is a collection of very old and unsuitable buildings which though long condemned still remain in use. The total accommodation, exclusive of the hospital, is for 162, while the average population during the ten years ending 1918 has been 382 exclusive of sick in hospital. The highest population on any one day was 795. Such overcrowding in the Presidency town of Bombay ought not to be allowed to continue, whatever may be the explanation of the failure to remedy it in the past. Other prisons also show similar features. In the Yeravda Central Jail the accommodation, exclusive of hospital, is for 1,324 while the average population during the ten years ending 1918 exclusive of sick has been 1,638. In the Ahmedabad Central Jail the accommodation exclusive of hospital is for 955 and the population excluding sick has during the same period averaged 1,093.

Camp jails in Bombay.

328. In this Presidency recourse is being had, in order to relieve overcrowding, to the plan of keeping prisoners in camp jails and of employing them on public works. In Chapter IX of this Report we have examined at some length the question of the advantages and disadvantages of this method of employment. It has there been shown that while in the case of the Visapur Camp Jail in Bombay results have been satisfactory, the same is not the case in regard to the Sind Gang. We think that a camp jail is permissible under the conditions there laid down and a local Government is only justified in resorting to it as a quasi-permanent method of providing for surplus prisoners when those conditions are fulfilled.

Overcrowding in Punjab jails.

329. The overcrowding that has occurred in the Punjab, though not quite so grave as in the Presidency of Bombay, has still been of a most undesirable character. Taking the central and district jails of the Punjab as a whole, we find that in the five years ending 1918 the accommodation exclusive of hospital has been sufficient for an average number of 12,293 prisoners, while the total average population exclusive of sick has been 14,131, showing an average defect of 13.1 per cent. The maximum population on any one day during this period was in 1915 when the number of prisoners locked up touched 20,030, the year 1916 showing a figure hardly less serious, namely 19,582. There is also a small extramural jail but this seems to have been brought into existence on other grounds than to relieve overcrowding. It certainly seems clear that the present state of affairs ought not to be allowed to continue.

Lahore Central Jail.

330. In individual jails in the Punjab the amount of overcrowding has been quite as bad as anywhere in Bombay. The Lahore Central Jail has accommodation, exclusive of hospital, for 1,309 prisoners while the daily average population exclusive of sick for the five years ending 1918 has been 2,039. On the occasion

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of our visit to this jail we were much impressed by the serious disorganization of which there was evidence. There had been a recent *emeute* between Sikhs and Pathans which had, no doubt, accentuated matters but this was itself an indirect result of the overcrowded population and of the excessive burden thus thrown on the over-taxed staff. We found that the jail authorities apprehensive of further trouble had thought it necessary to separate the two classes of prisoners, with the result that the Pathans were locked up by day in their sleeping barracks without work, and had actually been permitted to cook their own food there. We received many complaints about the food which was undoubtedly badly cooked, partly the result of the attempt to cook more rations than the kitchen ranges were built for. The state of the jail presented an instructive picture of the results of overcrowding combined with a weak and disunited staff.

Montgomery and Multan Central Jails.

331. At the Montgomery Central Jail the accommodation exclusive of hospital is sufficient for 1,494 and the daily average population exclusive of those in hospital during the five years ending 1918 has been 1,975. In this jail the surplus prisoners are kept in tents where they are secured to the ground by belchains. We were astonished to learn that this state of affairs had been permitted to continue for over ten years. There was less excuse than in Bombay because there was ample space available whereon to erect properly designed barracks. We did not visit the Multan Central Jail but we observe that the average population without sick there has been 1,621 in a jail with accommodation excluding hospital sufficient for 1,356.

Over crowding in Bengal.

332. No other Province can show anything so serious in the way of overcrowding as Bombay and the Punjab, but in Bengal also this evil has appeared. The total accommodation in the central and district jails of Bengal, excluding that in hospital but including that provided by the overflow sheds mentioned below, has averaged 12,579 during the five years ending 1918, while the average population, exclusive of sick, has in the same period amounted to 12,836, showing a chronic deficiency of 2 per cent. On certain occasions during this period much more serious degrees of overcrowding have existed, the maximum population on any one day touching 20,515 in 1918 and 19,041 in 1917. In this Presidency recourse has been had to the plan of providing movable " overflow sheds ", which are built in the Presidency Jail and are sent down to jails where the regular accommodation is insufficient. This plan is much to be preferred to such expedients as have been noticed to exist in the Montgomery Central Jail where in spite of the extremes of heat and cold the prisoners are kept in tents, but it can only be regarded as a temporary palliative and not as a proper substitute for permanent buildings.

Alipore Central Jail.

333. In the Alipore Central Jail the accommodation exclusive of hospital is for 1,293 prisoners and the average of the six years ending 1918 excluding sick, has been 1,403, thus showing a considerable excess.

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Working capacity of jails.

334. It will be observed that in the foregoing figures we have everywhere excluded the hospital accommodation. This is on account of the fact that even if the hospital is half empty it cannot be filled up with prisoners who are not sick. We wish to draw attention to the fact that the actual working capacity of a jail always differs very materially from the figure of total accommodation shown in Column 17 of Annual Statement A. In that column account is taken of the full accommodation in the hospital, the observation cells and the female, juvenile, civil and undertrial yards. But when the number of these special classes falls below the accommodation respectively appropriated to them, the surplus is not available for other prisoners. The working capacity of a jail should, therefore, be considered apart from the accommodation for these special classes of prisoners and we think that, for the better guidance of local Governments, the form of Statement A should be amended so as to bring this fact prominently to notice.

One berth for each prisoner essential.

335. The desirability of very early steps being taken to remove and relieve overcrowding will be evident from the foregoing remarks. It should be regarded as a fixed principle of jail management that every prisoner, whether in a ward or cell, should have a raised berth, not more than 24 inches and not less than 20 inches high, measuring 6½ feet long by 2½ feet broad and so constructed as to be bug-proof. Such berths have a material importance from the hygienic point of view as raising the prisoner out of the belt of exhausted air near the ground and protecting him from damp and cold. In wards they also serve to mark out the place allotted to each prisoner and should, under proper management, prevent the men from huddling together. In an upper storey they need not be more than 6 inches high. At many jails there are buildings where no berths have been provided, even though in some cases the floors are of stone flags. The number of berths in a jail will furnish the maximum capacity of the jail.

Superficial and cubic space for each prisoner.

336. We think also that the standard superficial space to be allowed per prisoner in any barrack hereafter constructed should be not less than 45 square feet. In Indian buildings, with their large amount of lateral ventilation, the amount of cubic space is of less importance, but in calculating the allowance of cubic feet per man no account should be taken of any air space above 13 feet. The present standard of accommodation in most Provinces is 40 square feet per head and it would produce too drastic a reduction in the existing jail accommodation to apply the new standard to present buildings, but we consider that if the number of prisoners who can be accommodated in any barrack according to existing standards is larger than the number of berths which the ward holds, the registered accommodation should be based on the latter. In other words, the actual accommodation of existing wards should be the number of berths or the number of prisoners at 40 square feet per prisoner, whichever is less.

CHAPTER XIII.

INSANITY, MENTAL DEFICIENCY AND ABNORMALITY.

Certifiable insanity and other forms of mental abnormality.

337. The law relating to lunacy in India is mainly contained in the Indian Lunacy Act, 1912, and the subject of lunatics in jail will be referred to in Chapter XVII of this Report which deals with special classes of prisoners. But insanity in its certifiable form is not the only manifestation of mental aberration which comes under the notice of the prison officer. In addition to the type of lunacy which can be readily recognised and transferred to a lunatic asylum, there exist many lesser degrees and shades of mental abnormality.

British Mental Deficiency Act.

338. In the Mental Deficiency Act, 1913, an attempt has been made in England to deal with this problem. The Act commences by laying down a definition of the word "defective" which is in following terms :—

> "The following classes of persons who are mentally defective shall be deemed to be defectives within the meaning of this Act :—
>
> (*a*) Idiots; that is to say, persons so deeply defective in mind from birth or from an early age as to be unable to guard themselves against common physical dangers;
>
> (*b*) Imbeciles; that is to say, persons in whose case there exists from birth or from an early age mental defectiveness not amounting to idiocy, yet so pronounced that they are incapable of managing themselves or their affairs, or, in the case of children, of being taught to do so;
>
> (*c*) Feebleminded persons ; that is to say, persons in whose case there exists from birth or from an early age mental defectiveness not amounting to imbecility, yet so pronounced that they require care, supervision, and control for their own protection or for the protection of others, or, in the case of children, that they by reason of such defectiveness appear to be permanently incapable of receiving proper benefit from the instruction in ordinary schools;
>
> (*d*) Moral imbeciles; that is to say, persons who from an early age display some permanent mental defect coupled with strong vicious or criminal propensities on which punishment has had little or no deterrent effect."

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Having thus defined what a defective is, the Act proceeds to lay down that persons falling within the definition who are guilty of any criminal offence or who are in prison or who are neglected or abandoned or are habitual drunkards, etc., may be dealt with by being sent to an institution intended for defectives or may be placed under guardianship. Power is taken to establish and maintain institutions for defectives as well as to recognise private institutions established for the same purpose. There are also provisions for the punishment of offences committed in relation to defectives and for other subsidiary purposes. The object of the Act was largely to enable persons of defective mind, as there defined, to be removed from jails, schools and other institutions to special places where they would be the subjects of expert care and attention.

Defect in British Act.

339. The chief defect in the Mental Deficiency Act 1913 which came under our notice results from the words "from birth or from an early age" in the definition of a defective. These words make it necessary to prove that any person proposed to be brought under the provisions of the Act has been of defective intellect from infancy. It is often extremely difficult to get evidence to this effect and the presence of these words in the definition has greatly limited and impeded the practical working of the Act. It was generally thought by persons in England who are qualified to give an opinion on the subject that the words "from birth or from an early age" should be excluded from the definition wherever they occur.

Need for provisions similar to English Act in India.

340. The British Mental Deficiency Act, 1913, does not extend to British India and the need for some arrangements for dealing similarly with defectives in this country is greatly felt. There is to be found in all prisons in India a certain number of mentally defective persons. It may be that owing to the increased nervous strain of modern existence, the number of such persons is larger in Europe and America than in India. Most officers in charge of prisons whom we examined placed the proportion of defectives among Indian prisoners at a very low figure. The question has not, however, been thoroughly examined and all authorities are agreed that a certain number of such prisoners does exist in every jail of any size. The presence of such prisoners in a jail is open to great objection. They constitute a serious difficulty in the way of proper jail administration. They break rules, refuse or neglect to labour, endanger discipline, and generally exercise a bad influence. In the interests of the jail it is, therefore, very desirable that they should be removed, while in their own interests it would be most advantageous that they should be placed in an institution entirely reserved for defectives where they would be under the care of officers specially trained in the treatment of this class of mental case. We recommend that in each Province a special institution for mental defectives should be provided in which all persons falling within the definition of defective as laid down in the English Act, with the omission of the reference to "birth or early age," can be collected for care and treatment. Accused persons proved by medical evidence to fall within the definition should be committed by the court to this institution

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and not to a jail, and the Inspector-general of Prisons should have power to remove to the institution from prison defective persons who are found in jail. This can be done by recognising the Defective Institution as a prison for the purposes of the Prisoners Act, 1900.

American methods in regard to other mental cases.

341. Some Members* of the Committee wish to go farther than this and to bring within the scope of special action or legislation all persons who are in any way mentally abnormal. In Appendix VII to this report will be found an exhaustive note by the two medical Members* of the Committee on the subject of mental defect and mental abnormality in connection with crime. They have there collected a great deal of information regarding recent American and English views on this subject. In the United States a special word, "psychopath", has been invented to denote one class of mentally abnormal persons and another word "psychiatry" has been found to describe the methods of dealing with them. As will be observed from our colleagues' description in Appendix VII, the terms 'mental defect' and 'mental abnormality' are used to cover a very wide range. In paragraph 80 of the Appendix is given a summary of "causative factors" in crime found in a group of 823 juvenile offenders and an analysis of the mental abnormalities and peculiar mental characteristics exhibited by them.

Proposals relating to American methods.

342. The practical proposals put forward by our medical colleagues appear to be briefly as follows:—

(*i*) All young adults and children who commit crime should, as far as feasible, be mentally examined by an expert in order to ascertain whether they are mentally normal or not.

(*ii*) All prisoners of whatever age should be similarly examined before they are released on probation or parole (in accordance with the recommendations in this report).

(*iii*) All mentally defective and mentally abnormal prisoners should be sent to a special prison.

(*iv*) Selected medical officers in the prison service should be sent to the United States to study the subject and the methods there in use.

(*v*) Where a lunatic asylum is near a prison, the superintendent of the asylum should be appointed "consulting alienist" to the prison and should, working on American lines, advise the prison authorities as to the mental condition and classification of prisoners, being given an allowance of at least Rs. 300 per mensem for this duty.

Principles underlying these proposals.

343. The underlying principle behind these proposals is evidently the view that under the new methods which mainly emanate from America the diagnosis of

*Colonel Jackson and Sir Walter Buchanan.

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mental defect and mental abnormality can be carried out with such scientific precision as to justify the special action contemplated. Whether this principle is correct is a question with which we hardly feel qualified to deal; but there are certain considerations which seem to us to indicate the need for caution. In the first place, while the defective as defined in the English statute is clearly recognisable by distinct tests, namely, that he is unable to guard himself against common physical dangers or is incompetent to manage his own affairs or requires supervision or control for the protection of himself or others, no formula has been put forward which will include all manifestations of mental defect or mental abnormality. A man falling within this category may be an idiot or he may be a person of brilliant intellect, even a genius. Some of the most famous names in history and literature would apparently have been so classed, *e.g.*, Joan of Arc, Martin Luther, Bunyan, Johnson, Rousseau and the whole body of religious mystics. Thus we are dealing with a very wide and undefined class, the sole embracing description of which is that the members of it are mentally abnormal.

Proposals involve revision of law of criminal responsibility.

344. It will be observed in the second place that mental abnormality and mental defect are regarded by the authorities who put forward these proposals as being "a causative factor" in the commission of crime. If a man commits crime in consequence of his being subject to mental abnormality, the question at once arises whether the degree of mental aberration from which he suffers is such as to render him incapable of judging of the nature and character of his actions, and so not responsible for what he did. The acceptance of the proposals regarding the examination, recognition and segregation of the large and ill-defined class here dealt with would, therefore, seem unavoidably to open up the consideration of the whole question of criminal responsibility and thus to involve problems of great complexity and importance.

English law of criminal responsibility.

345. The attitude of the English law on the subject of insanity as a defence for crime has always been marked by very great caution, and in this respect the law in British India has practically followed the rulings and doctrine laid down in Great Britain. Under English law, in order to establish a defence on the ground of insanity or mental incapacity, when the commission of the crime is admitted, the onus of proof is on those who set up that defence. Similarly under section 105 of the Indian Evidence Act when a person is accused of an offence, the burden of proving that the accused's case comes within any of the exceptions in the Indian Penal Code is upon him, and by the first illustration in that section this principle is expressly applied to section 84 of that Code, which provides that nothing is an offence which is done by a person who, at the time of doing it, is incapable by unsoundness of mind of knowing the nature of his act or that he is doing what is wrong or contrary to law. Section 82 provides that nothing is an offence which is done by a child under seven years of age, and section 83 lays down that nothing is an offence which is done by a child above seven and under twelve who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct. Every

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person who has attained the age of discretion is presumed, unless and until the contrary is proved, to be sane and accountable for his actions, and so far is this carried that when a lunatic has lucid intervals, the law presumes any crime he may commit to have been committed in a lucid interval, until the contrary is established. Again, it has been held that mere oddity of manner or half craziness of disposition are not a sufficient defence to a criminal charge and it has been especially pointed out that the atrocity or brutality of the act itself should not be received as evidence of insanity. These facts illustrate the scrupulous care which the English and Indian law take to adopt clear and definite standards and the reluctance which they show to make any admission that would weaken responsibility for criminal acts.

American and Colonial view.

346. In the United States of America and in some British Colonies, there has been a strong tendency to reject the British view of responsibility for crime in relation to mental disease and to give a considerable extension to the defence on the ground of insanity. In particular it has been laid down that a person may be capable of distinguishing between right and wrong and of recognising the nature and character of his act, and yet may be unable to control his actions. It has been held that though an accused person must be presumed to be capable of controlling his conduct until the contrary is proved, yet if it can be shown that the accused had lost the power of will to control his conduct, the defence on the ground of insanity is established. These doctrines have not, we believe, been accepted in England or in India, and the law on this subject seems still to stand much as it was laid down by the judges in what is known as the rules in Macnaughton's case. The question whether the law of England on this subject should be changed and the American or Colonial view substituted is a matter to be decided only by the properly constituted judicial authorities or by the legislature, but it seems to us that it is necessary to view with much reserve any proposals which might prejudice the consideration of this question.

Probable practical results of adoption of proposed methods.

347. In the meantime it may be worth while to consider some of the practical effects which would probably follow from adopting the proposals put forward. The principle that all mentally abnormal persons should be removed from the ordinary prisons and sent to special prisons is based on medical grounds and appears to have reference to the pathological condition of the prisoner. It seems therefore to follow that the psychopathic prisons must be run on medical lines and that in them the ordinary principles of jail treatment must necessarily give way to the main object of the institution, that is, the medical treatment of the inmate. Rules regarding labour, discipline and other conditions would presumably have to be revised in accordance with medical exigencies. It is not clear whether this would necessarily make them less rigorous than those in an ordinary jail but it certainly seems probable. If so, it would soon become the object of persons charged with grave crime, especially if they belonged to the more educated and well-to-do classes, to get themselves committed to the psychopathic prison rather than to the ordinary one. It is true that the adherents to this new science contemplate in some cases perpetual seclusion, but it is also to be

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presumed that as soon as the patient no longer appeared to require treatment he would go free. Whenever there seemed no chance of securing an acquittal, an accused or his friends would endeavour to collect evidence showing that the accused was suffering from mental defect or mental abnormality. Witnesses would be brought forward to prove that the accused had long exhibited the "peculiar mental characteristics", one or more of which appear, from the list in paragraph 80 of Appendix VII, to be regarded as marks of the psychopathic condition, such as "adolescent instability", "social suggestibility", "extreme love of adventure", "marked sensuality", "marked constitutional inferiority", "hypersensitiveness" and the like. The subordinate magistracy of this country, ordinarily devoid of even the least tincture of medical knowledge, would be confronted with these somewhat vague and difficult descriptions and would be confidently asked to find that the accused is mentally abnormal. It thus seems to us that the proposals in question might introduce a dangerous element into the administration of criminal justice. It appears from paragraph 83 of Appendix VII, that the American experts profess to find that from 50 to 60 per cent. of all cases studied in prison have nervous or mental abnormality or defect. The question is thus one of large dimensions, and certainly seems to demand cautious treatment.

Danger of malingering.

348. We would draw attention to another effect likely to follow from the adoption of this proposal. If every mentally abnormal prisoner is to be sent to a special prison, it will be for the Inspector-general to order such transfers under the Prisoners Act in the case of persons already in jail. We have given reasons above for assuming that the special prison will offer easier conditions than the ordinary jail. Hence every prisoner will want to get there, for at this stage his sentence will be fixed and there will be no chance of indefinite detention, which should never be possible except on the express order of a court. Thus a strong inducement to feign abnormal mental conditions will arise. It must be remembered that at present practically no prison official in India has closely studied these questions or can be said to be an expert in these obscure mental and nervous states. It must be a long time before such knowledge becomes general and before the average medical officer can be really qualified to advise the Inspector-general on such matters. Moreover, it is probable that at all times the detection of a malingerer of this type will present special difficulties owing to the vague and uncertain character of the manifestations grouped under the terms "psychic constitutional inferiority", "mental conflicts" and "psychoneurosis". The complex nature of the factors underlying these obscure mental conditions is admitted and the difficulty of distinguishing between real and simulated symptoms of hysteria, neurasthenia, kleptomania, and allied neuroses is a matter of common knowledge. We fear therefore that by the adoption of the proposal referred to the uniform carrying out of the sentences passed by the courts might be seriously impaired.

Objections to other proposals.

349. We feel considerable hesitation as to the other proposals referred to in paragraph 342. They also seem to involve an acceptance of the views relating

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to mental abnormality and psychiatry. If the suggested examination of the child-offender, the young adult, or the prisoner about to be released on probation or parole were directed merely to the discovery and isolation of the mental defective, as defined in the English Act, we should have nothing to say against it, except that the staff qualified to make the examination only exists to a very limited extent in India. The scope of the proposed enquiry is not, we believe, intended to be so limited but is to include not only mental defect but what seems to be known as "mental affect". It thus implies the adoption of ideas which, so far as we are aware, have not yet been fully accepted in Europe. As regards the proposal to send prison medical officers to study psychiatry in America, we should prefer to limit it to those officers who have already undergone such a course of special training in mental disease elsewhere as will place them in a position to form an expert opinion on the newer views prevailing in the United States.

Adoption of American methods at present deprecated.

350. While thus deprecating the adoption at the present state of our medical colleagues' proposals we recognise that the time may come when they will be fully proved and accepted. When the somewhat novel subject of "psychiatry" is as familiar as that of tuberculosis or heart disease, these views may receive universal recognition. We do not understand that this is at present the case. Our medical colleagues' object in writing Appendix VII has been, we believe, rather to draw the attention of the medical profession in India to these recent theories. As a non-medical body we think it prudent therefore to preserve a waiting attitude and not to recommend the adoption of practical measures which would apparently be in advance of what has yet been decided on in Europe.

Dissent of certain Members.

351. Our colleagues who are responsible for Appendix VII* are, of course, not parties to the statements, arguments and conclusions contained in this Chapter. With reference to paragraphs 9, 10 and 11 they invite attention to paragraphs 42, 86, 94, 96, 99, 110 and 112 of Appendix VII. Another Member† of the Committee has written a separate Note which will be found printed as Appendix VIII.

*Colonel Jackson and Sir Walter Buchanan.

†Sir James DuBoulay.

CHAPTER XIV.

ASSISTANCE TO PRISONERS ON RELEASE.

Prisoners' aid societies.

352. The necessity of providing an efficient organisation for the guidance and aid of released prisoners is now recognised in all civilized countries. "Our reforms," says a French writer, "will be in vain if, at the moment of his liberation, the prisoner is cast forth abruptly and without support to face all the difficulties of life and all the seductions of liberty." "The most terrible moment in a convict's life," said Mr. Wines in his book 'Punishment and Reformation,' "is not that in which the prison door closes upon him, shutting him out from the world, but that in which it opens to admit of his return to the world, having lost his character and standing among men, having suffered for months or years from the deprivation of pleasures to which he was accustomed, and having little if any money in his pocket to meet necessary expenses." These things are true in India as in other countries. The Indian Jail Conference of 1877 was not in favour of creating discharged prisoners' aid societies in India and remarked that prisoners here find much less difficulty in regaining their place in society than they do in England and that there was not the least prospect that anything would be done in this direction by voluntary effort. If these views were correct in 1877, there has been a considerable change in both respects in the last forty years. Very real difficulty is now often experienced by released prisoners in finding work, while the developing consciousness of the country makes it no longer true that nothing is to be expected from private effort. We have no doubt that there is at the present day a wide field for properly organised societies for the assistance of released prisoners and we think that steps should everywhere be taken to bring them into existence. We advocate the creation of a central association in the Presidency town or capital city of each Province. This will not only look after the work among the prisoners discharged from the prisons in the Presidency town but will also form a central and connecting bond for all other societies in the Province. It will thus occupy the position filled by the newly formed Central Discharged Prisoners' Aid Society in London and will help to secure a uniform policy and consistent procedure. Local societies should be formed for each central or district jail outside the Presidency town and these should be affiliated to the central society and should work in co-operation with it and with one another.

Composition of societies.

353. These societies would in the main be non-official in character but it is essential that they should receive a large measure of official countenance and support. Even in England experience has shown that societies for the assistance of discharged prisoners are seldom successful unless the officials of

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the prison give their help, and in the large prisons the governor and chaplain are generally members of the society and the latter often has a large share in its working. We think, therefore, that the superintendent and medical officer of the prison and the sessions judge of the district or the district magistrate should be *ex-officio* members of the managing body of the society. All non-official visitors should also be invited to join the society connected with the jail for which they have been appointed, and in the selection of persons for the post of non-official visitor weight should be given to the fitness of the candidate to serve on the committee and to his ability to give assistance in the task of finding work for discharged prisoners.

Private effort and government grants.

354. The societies should appeal to the public for subscriptions in aid of their work. We believe that if due publicity is given to the objects in view, to the need for the work, and to the fact that it has official approval, the Indian public will come forward and support it. Help from public funds will certainly, however, also be necessary and should be given. Such help should, we think, bear some ratio to the amount raised by private subscription so as to encourage the societies to make an effort to increase their collections from the public. We do not think any maximum contribution from State funds need at first be laid down. It is unlikely that these contributions will involve any excessive expenditure, but if it should hereafter prove necessary a maximum can be prescribed later. The presence of officials on the managing body of the society will be a guarantee for the proper expenditure of public monies and, moreover, the annual report of each society with a statement of accounts in a form to be prescribed by the local Government, should be submitted to the Government each year through the central association.

Societies' agents and their duties.

355. The central association and each society should nominate one of its members to be honorary secretary, and the honorary secretary should conduct all the correspondence of the society, summon meetings, and have charge of the funds. It will, however, seldom be possible for the honorary secretary to carry on the work of the society in the prisons, and for this purpose paid agents must be appointed, as in England. It is there recognized that the measure of success achieved largely depends on the zeal and fitness of the agent who works under the direct control and orders of the honorary secretary. It should be left to each society to fix the pay and to define exactly the duties of the agents, but the following statement of the duties of a discharged prisoners' aid society's agent in England may be quoted by way of illustration :—

(*i*) To visit the local prison weekly or oftener if ordered by the honorary secretary, and to take his instructions as to dealing with cases selected for aid.

(*ii*) To visit local employers of labour, taking every opportunity of seeing and becoming personally acquainted with foremen and other officials on works, explaining to them the object of the society and endeavouring to secure their co-operation.

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(*iii*) To meet the prisoners at the jail and accompany them to the railway station when needful and to provide board and lodging for them on discharge for a limited period until work is found.

(*iv*) To visit constantly all persons under the care of the society so long as they are unemployed and after employment is found.

(*v*) To enter daily in a journal all parties seen and places visited, such journal to be submitted to the committee at the monthly meeting.

(*vi*) To expend under the direction of the honorary secretary the gratuities of all ticket-of-leave men accepted by him and to lose no opportunity of procuring them suitable employment.

(*vii*) To enter daily all cash payments and to submit all vouchers to the committee monthly.

Access to prisoners.

356. It is, of course, essential that there should be hearty co-operation between the agents of the societies and the prison authorities. The agents must be given free entry into prison and should be allowed access to all prisoners who are within a short period of release, say three months, in order to find out whether they are likely to need and ready to accept assistance, and to ascertain what trade or occupation they followed before conviction and what their plans for the future are. In Calcutta, where a very promising and praiseworthy beginning has been made in the development of a Prisoners' Aid Society, we were told by the agent that in one of the prisons he was only allowed to see the prisoners while they were paraded on Saturday for the superintendent's inspection. This is not a satisfactory arrangement and the agents should, we think, be allowed to see the prisoners separately at such hours as may be fixed by the superintendent of the jail. On the other hand it is the duty of the agent to support, by all the influence he possesses, the authority of the superintendent, to abstain from any speech or action likely to embarrass him and to conduct himself with entire loyalty to the jail administration.

Aid to female prisoners.

357. It is hardly necessary to point out the need of special measures for the assistance of discharged female prisoners, or to dwell on the special difficulties which surround this aspect of the matter. If possible, there should be a female agent to meet and assist prisoners discharged from the female jail. It will, of course, be essential that any accommodation that may be provided for female ex-prisoners should be entirely separate and well removed from that provided for males, so that there may be no risk of the two classes meeting.

Prisoners' homes, workshops and labour yards.

358. The question of the provision of homes or work rooms for released prisoners is one on which there has been some difference of opinion. We do not think it is necessary for us to do much more than to lay emphasis on the fact

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that if these homes, workshops or labour yards are started, the relief or employment thus afforded to prisoners should be strictly temporary. We visited the released prisoners' workshop in Calcutta. There were 29 released prisoners on the books, of whom 11 had been working there for a year and upwards, 3 for between three and twelve months, and the rest for less than three months. It appeared that some men are kept on in this workshop for indefinite periods, instead of being merely given temporary help until they can find other employment, and there seemed to be a tendency to turn the workshop into a regular business, run on business lines and looking to its profits for its support. We do not think that this is a wise plan. It encourages the natural indolence of the ex-prisoner and gives him a motive and an excuse for not exerting himself to find fresh work. It keeps up the connection between the ex-prisoner and the prison, brings him constantly in touch with fresh criminals, and so prevents his being absorbed in the ordinary ranks of the community, while exposing him to continual risk of fresh temptation. We were told that a prisoner's home, which formerly existed in connection with Barlinnie Prison at Glasgow, had been closed for reasons such as these. The Deputy Commissioner of Police, Calcutta, told us that in at least two cases it had been proved that fresh crime had been concerted in the workshop. We learnt that prisoners who have been employed in the workshop disappear, are found to be again in jail and on release are again admitted to the workshop, without limit to the number of times this process is repeated. Three prisoners had disappeared on the date of our visit. Thus there seems a very real danger that such a workshop or home might come to be regarded as a centre, where recidivists can find shelter while planning fresh crime. We think that the employment of prisoners in such a workshop or their retention in a home should be limited to a few days.

Gratuities and their disbursement to prisoners after release.

359. Expert authorities are generally agreed that it is undesirable, when a prisoner is released, to put into his hands the whole of the gratuity which may at the moment be standing to his credit. The International Prison Congress which met in Paris in 1895 considered this question and passed the following resolutions regarding it :—

"(*a*) it is to be desired that the prisoner should not have the free disposition of his *pecule* (gratuity) at the moment of discharge,

(*b*) the Congress favours the principle of committing the *peculé*, according to circumstances, either to a savings bank, a local authority or an aid society,

(*c*) on the whole the intervention of aid societies is to be preferred."

It was stated that in Sweden, Switzerland and some other countries, if the amount to the prisoner's credit exceeds a certain sum, it is placed in the savings bank and distributed by monthly payments according to a fixed ratio on presentation by the ex-prisoner of a *livret* or demand-note at any post office. It is claimed for this system that it furnishes some measure of protection against recidivism as the ex-prisoner has a motive to keep straight until his money is

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exhausted and the longer a man lives an honest life the less danger there is of relapse. In the event of reconviction, the deposit in the savings bank is forfeited. Cases will, however, arise where it will be in the interest of the ex-prisoner that the whole sum shall at once be disbursed or employed for his benefit, for example, in buying him tools or setting him up in business. In order to provide the necessary elasticity to deal with the circumstances of each case, it is generally best that when a well-established prisoners' aid society exists with efficient and trustworthy agents, any gratuity standing to the prisoner's credit shall be made over to the society on the understanding that it will be disbursed as seems best in the interests of the prisoner. No hard and fast rule need, however, be laid down and in suitable cases, as for instance when the prisoner is a Christian, it may be found best to entrust the money to his clergyman or priest for expenditure.

Connection between parole officers and aid societies.

360. In Chapter XVI of this Report (paragraph 454) we recommend the creation of a revising board for the purpose of reconsidering sentences when a fixed proportion of the sentence, one-half or two-thirds, has been served, and in suitable cases of releasing prisoners on parole for the rest of the term. We contemplate the appointment of parole officers, who would be attached to prisons, and who would exercise supervision over the prisoners thus released on parole. Breach of the conditions of the parole-agreement to which the pisoner has assented, would render him liable to be brought back to prison to serve out the unexpired period of his sentence. In cases dealt with by the revising board under this scheme the duty of disbursement of the released prisoner's gratuity, of finding him employment, and of supervising his conduct and industry will generally be performed by the parole officer, and the local discharged prisoners' aid society will thus be relieved of any functions in regard to such prisoners. But we think that the two organisations should work together as much as possible. It may be possible for the parole officer to be employed also as agent to the society where this arrangement would not result in his being overburdened with work. In other places it may be convenient to recognise the society's agent as parole officer for individual cases or classes of cases. The respective functions of the two classes of officers should, however, be clearly differentiated and the differences borne in mind. Generally we think that the two organisations should work in close co-operation and communication. In the case of the Special Institutions for adolescents, the work of the discharged prisoners' aid society will similarly be performed in the main by the officials attached to the institution.

Communication between societies.

361. It should, perhaps, be added that when a prisoner is about to be released from a prison which is remote from his home, the discharged prisoners' aid society of the district where the jail is situated should communicate with the local society within the range of whose activities the prisoner resides and should move that society to undertake charge of the case.

CHAPTER XV.

MEASURES FOR PREVENTION OF COMMITTAL TO PRISON.

Section I.—The Child-Offender.

Introductory.

362. In this Chapter we propose to examine as concisely as possible those directions in which it seems practicable to relieve prison administration by reducing the number of persons sent to prison. This inquiry will lead us over rather a wide field, much of which seems at first sight to be far removed from the subject of prisons and prison management; but we believe that a careful consideration of the subjects touched on will show that they all have an important bearing on the efficiency and appropriateness of the existing systems of prison administration and restraint on liberty in India. We propose to deal first with the subject of the child-offender and with the machinery which has been provided in recent years to prevent offenders, who fall within this description, from entering prison. In Appendix IX to this Report, a full account will be found of the position of this question in Great Britain and the United States.

Special treatment of child-offenders.

363. In no direction have more important changes been effected in the last thirty years than in the treatment of the child-offender. Until nearly the close of the last century, children, if over the age of seven, were not regarded, or dealt with by the criminal courts very differently from adults. They were tried in the same courts and with the same procedure, sentenced to similar penalties and imprisoned in the same prisons. The first impulse towards reform came in this matter, as in many others, from America. It was in that country that the first children's court was called into existence and it is in America that the theory of the State's responsibility towards the child has been most fully developed; but these views are no longer the sole property of any one country. It is now generally recognised that the ordinary healthy child criminal is mainly the product of unfavourable environment and that he is entitled to a fresh chance under better surroundings. There is a general consensus of opinion that as youth is the time when habits have not become fixed, the prospects of reformation are then most hopeful. From both points of view it has come to be agreed that the child-offender should be given different treatment from the adult.

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Age limits of childhood.

364. The first question for decision is as to the age limits constituting childhood. Under section 82 of the Indian Penal Code nothing is an offence which is done by a child under seven years of age, and under section 83 nothing is an offence which is done by a child above seven but below twelve who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion. For the purposes of the English Children Act, 1908 (8 Edward VII, c. 67) a child means a person under the age of fourteen, and a young person means a person who is fourteen but under sixteen. In the United States of America the maximum age of childhood varies in different States from sixteen to twenty. The newly enacted Madras Children Act follows the English practice in regarding persons under the age of fourteen as children and those of fourteen but under sixteen as young persons. It will probably be convenient that a uniform rule should be adopted throughout India and we accordingly recommend that the ages adopted in the English and the Madras Children Acts shall be generally followed. In the succeeding paragraphs the words child and child-offender includes young persons.

The child-offender in the United States.

365. In the United States of America when a child has committed an offence, it is generally admitted that he should not be regarded as a criminal to be punished, but rather as a person towards whom the State has been guilty of some dereliction of duty and who ought now to be guided and assisted. The proceedings in the children's court are held to be more of the nature of proceedings in chancery than of a criminal character and emphasis is laid upon the quasi-parental position which these courts should occupy. Thus to take a recent example, the Californian law lays down that when a child (in this case any person under the age of eighteen) is found to have violated any law of the State, the court shall adjudge such person to be a ward of the juvenile court. In most States the child is not convicted of a particular offence but of delinquency generally and the conception is that, just as in civil matters the minor is not legally responsible, so in criminal cases full responsibility ought not to be imposed until the age of majority is reached. With such a point of view it is obvious that no child should be sent to prison and under the law of most American States the committal of a child to prison has long been prohibited.

The child-offender in England.

366. Although the English law has not gone so far in the direction of distinguishing between children and adults as that in force in most States of America, by section 102 of the Children Act, 1908, children under fourteen cannot in any case be sentenced to imprisonment or penal servitude and those under sixteen cannot be sentenced to penal servitude and can only be sentenced to imprisonment if the court certifies that the young person in question is so unruly or so depraved that he cannot be sent to any other place of detention. Before the passing of the Children Act the number of children and young persons admitted to prisons in England and Wales was slowly diminishing.

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but averaged about 1,000 per annum; since the Act was passed there has been a rapid decline and the number now is not ordinarily much above a dozen a year, so that it may be said that imprisonment of persons under sixteen has practically ceased in Great Britain as in America.

Imprisonment of child-offenders to be prohibited.

367. The arguments against sending children to prison seem to us to be convincing. Without adopting the extreme attitude of some of the American States, it will generally be admitted that a child who commits crime cannot have the same full knowledge and realization of the nature and consequences of his act as an adult. The cold-blooded character of the crimes sometimes committed by young children may generally be attributed to this lack of realization, just as boys are often cruel from mere thoughtlessness. It is well known that the full recognition of the laws of property comes gradually and that offences against property committed by the young are largely due to lack of suitable training and to bad up-bringing. Experience proves that at the ages here under consideration proper training will, in the great majority of cases, be successful; but such training cannot well be provided in a prison. It should be given in a special institution devised and equipped for the purpose. Moreover, it is undesirable to familiarise the young with the sights of prison life or to blunt the fear of prison which is one of the most powerful deterrents from crime. For all these reasons, we consider that the imprisonment of children and young persons is clearly contrary to public policy, and we recommend that the provisions of the English law on this subject, which have already been embodied in the Madras Children Act, should be generally adopted throughout India. In the above remarks we have not in view the case of children suffering from mental defect, for whose treatment separate arrangements should be made.

Provision of remand homes recommended.

368. The Children Act, 1908, also contains provisions intended to prevent the committal of children and young persons to prison even on remand, or pending trial or inquiry, and corresponding provisions seem clearly to be necessary if the familiarization of these young offenders with prison life and their possible contamination by older offenders is to be avoided. In a number of cases in the course of our inquiries we came across children detained in jail pending trial, the most flagrant case being in Bengal where a small child whose age had been originally marked as six, afterwards changed to seven, was under detention with grown-up prisoners in the under-trial yard of a district jail on a charge of cheating. It seems to us to be necessary to make such committals as this impossible. Most local Governments have endeavoured of late years to restrict the committal of children to prison after conviction, but they are powerless to deal with cases such as that above noticed, because they never hear of them. The English law contemplates the provision of special places of detention for children and young persons under trial, and we visited remand homes in London and Birmingham as well as some in America. We recommend that, as far as possible, such remand homes should be created in India. We realise the difficulty of providing such places in every district and the

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problem can only be solved gradually and by the continued efforts of local authorities. This has been recognised in the Madras Act which leaves the matter to be dealt with largely by rules. In some parts of India, private benevolence may come forward to meet the difficulty, in the same way as the remand home at Birmingham was the gift of a private person, or arrangements for boarding remanded children with a private person, such as a retired official, may be sometimes possible. We visited one remand home, the House of Detention in Calcutta, which is maintained in connection with the Children's Court and which seemed to us to be generally suitable, the chief defect being that neither the officer in charge nor his wife could speak the vernacular. This is a defect which certainly ought to be remedied. Nor did we fully understand the necessity for the circular order No. 885, dated 1st June 1914, of the Commissioner of Police, to the effect that "no person who is not clearly and unmistakably under the age of fifteen years should be sent to the Superintendent of the House of Detention." We should have preferred that the instruction should be reversed and that all children not clearly and unmistakably over fifteen should be sent there. Otherwise, this Calcutta Home of Detention seemed to be quite a promising example of what can be accomplished in India. We recommend that the provisions of the Madras Act on this subject should be generally adopted and that it should be provided by the rules to be made thereunder that when there is no remand home, the Court should endeavour to make suitable arrangements for the custody of any child or young person who is under remand, and that a special report shall at once be submitted to the district magistrate by any court which may find it unavoidable to commit a child or young person to a prison for safe custody.

Children's courts in the United States and in England.

369. The first children's court was opened in America and in that country the system has now been largely developed. The magistrate sits in a room so arranged that the accused children can come right up to his table. He conducts the inquiry himself without the intervention of clerks, court inspectors or counsel, and the police, if present, are usually not in uniform. The proceedings are marked by much absence of formality and the procedure is simple and elastic, though differing in different States. In Great Britain the only court in which we saw these methods at all fully carried out was that of Mr. Clarke Hall, the Stipendiary Magistrate at Old Street, London, whose work "The State and the Child" is full of valuable information and ideas on this subject. In many English courts the regular procedure and the use of legal formulæ perplexing and disconcerting to the child are still adhered to. We are strongly of opinion that the procedure in children's courts should be as informal and elastic as possible. Relaxation of the rules has no doubt certain drawbacks and dangers but in the case of children the advantages, we think, outweigh the disadvantages. For instance, strict adherence to the provisions of section 342 of the Criminal Procedure Code in dealing with children is liable to defeat the object in view. Experience shows that if a child is quietly questioned by the magistrate himself in simple every-day language and without the use of legal phraseology, he will often tell the truth. Each case should be left to be dealt with on common-sense principles. When once the real facts

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have been ascertained, the question for the court should be, not what punishment is to be imposed on the child, but what steps are best to be taken in the interests both of the child and of the community to remedy the evil that has arisen.

Provision of children's courts in India recommended.

370. It was suggested by some of the witnesses who gave evidence before us that the provision of children's courts is unnecessary in India partly on the ground that children in India rarely commit serious crimes and partly on the supposition that Indian children are more precocious than those of Europe or America. The latter reason is, we think, merely due to ignorance of the facts; a London street-arab, a Paris *gamin* or a New York gutter-child could probably "give points" to any Indian child even of the great cities, still more in the rural districts. The former reason seems to us also of no weight because the children's court is desirable for those children who do commit crime. We think, therefore, that the creation of children's courts is desirable, but the small number of children to be dealt with does produce a practical difficulty. It would obviously be impossible to provide special tribunals for the trying of child-offenders except perhaps in two or three Presidency towns. But it is not at all necessary that the establishment of children's courts should involve the appointment of fresh or additional magistrates. All that is needed is that the magistrate should sit at special hours, and if possible, in a separate room to hear charges against child-offenders. The main object is to produce in the mind of the magistrate a clear recognition of the fact that he is dealing with a case of a special character in which he is expected to assume a different standpoint, a more paternal attitude, to adopt the American idea, from that which he would employ in trying a case against an adult.

Special magistrates for child-offenders in the United Provinces.

371. In one Province in India, an attempt has been made to secure more intelligent treatment for children by the appointment in every district of a special magistrate to try children's cases (Resolution of the Government of the United Provinces, No. 2985, dated 2nd August 1913). Although this arrangement was doubtless made with the best intentions, we are unable to approve of it, as it seems to us that more harm than good is likely to be done by taking children long distances from their homes to appear before the special magistrate. We recommend that cases against children outside the large cities should be tried by the most experienced magistrate having ordinary jurisdiction in the locality but that he should sit at a special hour and, if possible, in a special place for the purpose.

The Children's Court, Calcutta.

372. The only children's court which we were able to visit in India was that in Calcutta. This seems to us to represent a most praiseworthy attempt to grapple with the question, but it did not appear to be altogether successful. In the first place it is not presided over by any one magistrate but by the magistrate who happens to be sitting on the day when the case comes up. The

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result is that, if, when the case is ready, the magistrate who first heard it is not sitting, the case has either to wait until his turn to sit again comes round or it has to be heard by a different magistrate. A similar plan is followed in Edinburgh and there too the objections to it were pointed out. We think that in large towns like Calcutta a single magistrate, specially selected, should be entrusted with the duty of trying children's cases and he will then have an opportunity of becoming more or less an expert in the subject. There seems to be sufficient work for such a magistrate, for the number of cases coming before the children's court in 1919 was 1,638. In the second place, under the Bengal Government's Notification No. 4913-P, dated 22nd May 1914, children who are charged jointly with any person who is over fifteen years of age do not come before the court. This seems to be an undoubted defect ; there is no rule of law prohibiting the separate trial of persons accused of the same offence and the reasons for trying a child-offender in a children's court are no less strong when he is involved in a case in which an adult is also charged than they are when no adult is implicated. The practical result of the rule is that many children are sent to jail both on remand and after conviction who, if they came before the children's court, would probably be otherwise dealt with.

Necessity for full information before dealing with child-offenders.

373. With the disappearance of imprisonment as a method of dealing with the child offender, the question of how the courts are to dispose of criminal charges against children and young persons becomes of greatly increased importance and difficulty. The reason why so many juveniles have in the past been sent to prison may be that that method of disposal presents so much the easiest course for the magistrate to pursue. The imposition of a week's or a month's imprisonment involves the minimum amount of thought or consideration of the real needs of the case. But one of the advantages of prohibiting the infliction of imprisonment is that it will emphasise the fact that the magistrate is dealing with a special class of offender and will compel him to think what is best to be done. In order to arrive at a wise decision it will be very desirable that the magistrate should have before him the largest amount of information obtainable regarding the child, his home, his habits, and the circumstances which have led him into crime. In many cases, therefore, except where the offences are unimportant, it is desirable that before any final order is made there should be an adjournment for the collection of information about the child-offender, who should, if possible, be released on bail during this interval, or if that is impossible, be sent to a remand home, in no case to a jail. The collection of information would be as far as possible entrusted to the special officers of the court mentioned below, and should include, when practicable, a report on the child's mental and physical condition.

Release on probation.

374. When the court is in possession of all the necessary facts, it will make a final order. We wish to draw attention here to the opinion held by the best authorities both in England and in America that the most satisfactory solution of the problem will be to entrust the child to his relatives, if there is any reasonable prospect of their exercising better care of him in the future than in the

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past and if the home is at all a decent one. In order that this plan may be adopted it is desirable that the scope of section 562 of the Criminal Procedure Code should be extended, so that in the case of children and young persons at least, a wider discretion may be conferred on the courts to release children under that section, which should, we think, be made as elastic as possible. It should be possible for the court, in addition to releasing the child-offender on his own recognisances or on those of a relative or other fit person, to combine such an order with a stipulation regarding payment of fine, damages or costs, or regarding the undergoing of such a period of probation, with or without security for good behaviour, as the court may see fit, or both. It is often beneficial to join the parent with the probation officer as surety as bringing home to the former his responsibility regarding his child. The idea of requiring the young offender or his parents or guardians to make some measure of restitution by payment of fine or damages is growing in popularity in the United States, and appears highly desirable. This and other methods of discharge are there freely employed in combination with the system of probation, which we must now notice.

The probation officer.

375. The idea of the probation system is to provide a method by which an offender, instead of being whipped or sent for a prolonged period to a reformatory or other school, can be placed under the direct personal supervision of some person, chosen if possible for strength of character and sound personal influence, who will watch over the offender's future conduct, give him assistance in procuring work, advise him on occasions of difficulty, dissuade him from associating with unsuitable friends, and generally direct and influence his conduct for good. The person to be thus entrusted with supervision over a young offender may be a paid official, generally termed a probation officer, working under the orders of the court, or he may be a private individual interested in philanthropic or social work, in this country possibly a missionary connected with some recognised mission. The court when discharging a child-offender, would place him under the supervision of such a probation officer or probation worker for a fixed period, imposing such further conditions or penalties as it saw fit.

Probation officers in the United States, Great Britain and Calcutta.

376. In Great Britain and America paid probation officers are regularly appointed and play a most important part in the criminal administration of the country. In some parts of the United States, a large proportion of the criminal charges against children are settled out of court through the agency of the probation officer. We were told, for instance, that in the Chicago Juvenile Court 17,000 out of 20,000 complaints against children are dealt with out of court by the chief probation officer. In Great Britain this has not yet been attempted and the probation officer acts entirely under the orders of the court. In the first place, he is largely utilised to collect the information necessary to enable the court to deal with the case, as noticed in paragraph 373 above. In the second place, he fills the part of "guide, philosopher and friend" to the youthful offender who has been discharged on probation as explained in paragraph 375. It will be evident that for the performance of these duties,

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persons of high character, judgment, discretion and if possible enthusiasm are required. It will not be easy to secure the right type of person in India but we are not without hopes that they may be forthcoming. For the present the appointment of probation officers might, we think, be restricted to the largest towns. No definite educationatl qualifications are essential but in practice men of good education and of the stamp found among the masters of the upper classes in secondary schools or colleges will be suitable. The pay must be sufficient to attract the right type of man. We would suggest a scale rising from Rs. 100 to Rs. 250 per mensem, and it may be necessary to offer even a higher salary for a chief probation officer. We saw in Calcutta two probation officers there employed but the pay (Rs. 50 per mensem) was insufficient to attract really suitable men nor had the requisite powers been conferred by law to enable these probation officers to do justice to their position. Probation officers should always be remunerated by a fixed salary and not, as in some parts of England, by *per capita* grants based on the number of probation cases entrusted to them.

Methods of probation work.

377. Other points to which attention must be directed in the working of the probation system are as follows. It is essential that a probation officer should not be given more cases than he can look after properly. In England sixty has generally been accepted as a maximum, and if so large a number is given, they must not be scattered over too extensive an area. In the case of a voluntary probation worker any such number of cases as sixty would be quite out of the question, but it might be practicable to entrust one or two cases to such a worker. Volunteer workers are little, if at all, used in America where the system of appointing paid probation officers has attained great development, and even in England opinions differed a good deal as to their value, but we see no reason why, if suitable persons come forward, the plan might not occasionally prove useful in this country. It was generally held in England that the volunteer should be placed under the paid officer, but this would be clearly inadvisable in India if the voluntary worker were an experienced missionary. It is generally useless to place a child on probation if its home is a thoroughly bad one, and in such a case it is better to commit the young offender at once to a suitable institution. The practice of placing a child or young person a second or third or fourth time on probation in spite of his having several times relapsed is also generally condemned and has brought discredit on the whole system. If a child who has been placed on probation wilfully breaks the conditions on which he was discharged, refuses to follow the advice of the probation officer, or in any way seriously misconducts himself, it should be the duty of the probation officer to report the case promptly to the magistrate who made the probation order and who will then be able to cancel the order and to take fresh measures.

Whipping.

378. If probation is inappropriate or fails, the magistrate has to find some other method of dealing with the child. Whipping is resorted to in a large number of cases in Great Britain, but of course can only be used in the case of boys.

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Opinions vary a good deal as to the value and efficiency of this form of punishment. Some authorities think that flogging has a marked effect in putting down juvenile crime. Others take a precisely contrary view, declaring that when a boy has suffered whipping, he becomes a hero among his fellows and more difficult to manage than before. While we are not disposed to condemn whipping altogether, we are inclined to think that it is effective in only a small percentage of cases. It is generally agreed that when this method of dealing with a boy has been tried and the boy relapses into crime, it is of little use to have recourse to it again. Repeated whippings do no good, and if the first fails, there is little choice open to the magistrate but to commit the boy to an institution. The infliction of a sentence of whipping should be carried out at the court, and in no case should a boy be sent to a jail to be whipped.

Institutions for children in the United States.

379. In the United States the trend of opinion of late years has been somewhat against institutional life. It is found that the lack of home influence is bad for the child and that children thus brought up often do not turn out well. There has been a movement in favour of providing for children by boarding them out in private families instead of sending them to schools and orphanages, and we were even told that many such institutions have been closed. Children are boarded out either as temporary inmates of private homes or are permanently adopted into private families. Unfortunately this plan is impracticable in India, owing to the prevailing caste system, except perhaps occasionally in the case of Anglo-Indian children. There is general agreement in America that where institutions do exist, they should be arranged on the cottage plan under which the boys or girls are housed in small cottages or bungalows, each being under the charge of a house-mother or in the case of older boys, of a man and his wife. If the numbers in each house are small enough (and they should not exceed 20 or 25) it is possible to reproduce to some extent the atmosphere of family life. The huge institution, in which some hundreds of children are brought together in a single large building, is generally disapproved of by experienced authorities.

Institutions for children in Great Britain.

380. In England two classes of institutions for children have grown up, both almost entirely under private, as opposed to State, management. The reformatory school is intended for the older boy or girl, no child being received before the age of thirteen and detention extending up to nineteen. The industrial school on the other hand receives children however young and can keep them up to sixteen. It is evident that the two classes of institution overlap, and the most authoritative opinions we received were in favour of substituting a single class of school divided into two groups entirely on the age principle, one group receiving and keeping young children up to the age of fourteen or fifteen, and the other receiving and keeping them above fifteen. This would involve passing on the children, at a definite age, from one group to the other. It also presupposes a degree of central control which does not at present exist in Great Britain. Opinion in Great Britain coincided with that in the United States of America as to the advantages of the cottage system.

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Reformatory schools in India.

381. In India the Reformatory Schools Act, 1897, authorises the establishment of reformatory schools by the State, or the use of schools maintained by private persons. The former method has generally been followed and we visited State-owned reformatory schools in Madras, Burma, Bihar and Orissa, the Central Provinces, Bombay and Delhi. We cannot say that we were, on the whole, favourably impressed by this class of institution. In every case they consist of large centralised bulidings, without any attempt to reproduce the features of home life. In several cases, *e.g.,* Madras, Burma and Bihar and Orissa, they are located in old jail buildings ; there is generally a high wall round them, they are often located next door to a jail ; and the jail atmosphere has not altogether disappeared. The number of boys collected in these institutions is, in nearly every case, much too large for a single superintendent to be able to give attention to individual cases ; the absence of all female care is a marked defect ; and the general impression we obtained was that, except in one or two instances, the reformatory schools were too apt to approximate to juvenile jails rather than to real schools. The persons in charge of them had not always been selected on the ground of previous experience or of fitness to deal with boys. Thus the superintendent of the Chingleput Reformatory was an assistant surgeon with no previous experience of school work. This was a temporary expedient consequent on the bad state of health in which the boys were found on the departure of the previous superintendent, but it was clearly not a satisfactory arrangement. At this school and others, we were struck by the prevailing gloom and lack of spirit among the boys. The most favourable impression we received was at the Delhi Reformatory School, which serves the Punjab, the North-West Frontier Province and Delhi. This has the advantage of comparatively small numbers, 106 on the date of our visit, whereas at Hazaribagh there is accommodation for 480, and the actual strength was 439. It seems to us urgently necessary that a separate school should be provided for Bengal and for Assam.

Certified schools in Madras.

382. By the Madras Children Act, the operation of the Reformatory Schools Act, 1897, has been suspended wherever the new Act comes into force and the term " reformatory school " has been replaced by the term " certified school. " This is probably advantageous in view of the associations which have grown up round the former phrase. The certified schools are to be divided into senior and junior, and it is apparently contemplated to provide further by rule for the distinction between the two groups of institution. There is power to recognise private schools, which would then be placed under regular inspection. The general trend of the provisions of this Act seems to be in the direction of bringing the institutions certified under it more into line with ordinary schools. If this is carried out in practice it will certainly be very beneficial. We visited an excellent specimen of a school under private management, namely, the David Sassoon Industrial and Reformatory Institution at Bombay licensed not under the Reformatory Schools Act but under the Apprentices Act, 1850 (XIX of 1850).

Location of schools, and staffs.

383. We consider it to be very undesirable that reformatory schools, or their equivalent, should be located in old jail buildings or placed near jails. Unless

this is avoided, the jail point of view and jail methods are likely insensibly to be introduced. Endeavours should be made to approximate these institutions to ordinary schools and such resemblances to jails as high enclosing walls and iron-barred windows should be avoided. If possible, properly planned buildings on the cottage system should be provided, the institution should be placed in the country and not in, or close to, a large town, and we would recommend that there should always be a matron in every such school, especially for the benefit of the younger boys. Schools for girls would, of course, be under female superintendence. As the object in view should be to make the inmates fit for free life they should be carefully trained in habits of self-control and self-reliance. As they get older and can be trusted they should be sent out unattended. It is unnecessary for us to go into questions of education or manual training as these are matters falling within the ordinary scope of the Education Department's control.

Supervision after release and statistics of after-results.

384. It is generally recognised in England and the United States that endeavours should be made to keep in touch with the pupils discharged from a reformatory school, to give them any guidance or assistance possible in their after-career, and to maintain a record of the number who turn out well or ill in after-life. This record of the results of the school's working is valuable to those who direct the policy and control the working of the school and should be available to them. In some instances we found that though statistics regarding the success or failure of ex-pupils were collected by the Director of Public Instruction, they were not communicated to the superintendent of the school. This is an omission which might, we think, be rectified. In many instances, however, the record of the doings of ex-pupils was very imperfectly maintained and little attempt was made to ascertain how they turned out. Attention may be drawn to the system which is followed in connection with the Hazaribagh Reformatory School. It is part of the duties entrusted to the regular staff of the Education Department, the sub-inspectors and assistant sub-inspectors of schools, to maintain a watch over ex-pupils and to submit reports on their conduct and progress. Moreover, two special deputy inspectors of schools on Rs. 75—150 are attached to the school and are employed to visit the boys released from the school. Owing to the fact that the school serves the three Provinces of Bihar and Orissa, Bengal, and Assam, the ex-pupils are very much scattered and the deputy inspectors have to travel over such great distances that it is difficult for them to carry out the work effectively. They cannot do much more than stimulate the ordinary staff of the Education Department to maintain a watch over ex-pupils of the school and to take an interest in the welfare of these boys, but in more favourable circumstances such a staff would be likely to show valuable results.

Defective children.

385. It is most undesirable that children of defective intellect should be sent to any reformatory or certified school. It is, therefore, of importance that all children should be carefully examined as to their mental and physical condition before they are committed to such a school, or, if that is not practicable, that they should be so examined immediately upon arrival there. Those who are of defective intellect should be sent to an institution specially provided for such classes.

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Non-criminal children in bad surroundings.

386. Before quitting the question of the child-offender we would draw attention to the desirability of making provision for those children who have not yet lapsed into crime but who are either living in criminal or vicious surroundings or who are without proper guardians or homes. Section 29 of the Madras Children Act deals with this class of case and we think that the provisions there contained should be extended to the whole of India. They need to be supplemented by a further enactment providing for the case of children in immoral surroundings, and especially of female children likely to be brought up to habits of prostitution. The importance of cutting off the sources of crime and of removing children from a bad environment before they actually come within the scope of the criminal law hardly needs demonstration, and the ultimate effect of such action in reducing offences and so relieving the burden of jail administration has been proved by experience in Great Britain and elsewhere.

Section II.—The Adolescent Criminal.

Adolescence a critical period.

387. Under the definitions of "child" and "young person" suggested above, the period of childhood comes to an end at the age of sixteen. The next stage in the life of the normal individual is that of adolescence and this is, from the point of view of the criminologist, more important even than that of childhood, for a larger number of individuals begin to commit crime after entering the period of adolescence than before. The increasing amount of freedom enjoyed, the gradual weakening of home restraints and the development of the sexual instinct combine to make this the most critical period of life, when the mind is specially susceptible to fresh impressions and when it is peculiarly important to prevent habits of immorality and crime from being formed. The first question for consideration is as to the ages which should be regarded as falling within the stage of adolescence.

Limits of age of adolescence.

388. Some of the witnesses who gave evidence before us, relying on the undoubted fact that there is in nature no hard and fast limit between childhood and adolescence, or between adolescence and adult age and that much individual variation occurs in this respect, suggested that no limit should be laid down by the law, which should merely direct the separation of the immature from the mature. Attractive as this sounds, we fear that it would, in practice, end in confusion, as every one would take a different view of what constitutes immaturity of maturity. For the guidance of courts some limits must be prescribed. In the United States of America the age-periods adopted are often sixteen to thirty. We are not at all convinced that it is wise thus to bring together in one institution the boy of sixteen and the man of thirty.

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There is, moreover, much evidence in favour of the view that in the normal individual habits begin to become fixed soon after twenty. Careful investigations such as those of the late Dr. C. Goring show that the culminating point in the tendency to commit serious crime for the first time occurs between the ages of twenty and twenty-five and then rapidly declines and that the mean age of habituals at first conviction is twenty-two. The British practice treats the age of adolescence as extending from sixteen to twenty-one. A good deal might, no doubt, be said for extending the higher limit by a year or two, but experience indicates that with every year beyond twenty, the prospects of reformation become less favourable and we think on the whole that the years sixteen to twenty-one should be recognised as constituting the adolescent period. In order to provide, however, for any change of view which experience may hereafter produce, we would suggest that power to extend the age to twenty-three should be conferred on the Government of India in the same way as it is in England conferred on the Secretary of State by section 1 (2) of the Prevention of Crime Act, 1908.

Adolescents not to be sent to ordinary jails.

389. The next question for consideration is as to the special measures to be taken with regard to persons who commit crime between the above-mentioned ages and who are sentenced to transportation or imprisonment. The fact that they are then at an impressionable age renders it undesirable that they should be familiarised with ordinary jail life, and still more undesirable that they should be brought into contact with adult offenders. We conclude, therefore, that such offenders should not be sent to ordinary jails. It also seems to follow from the fact above noticed that special efforts should be made to bring them under reforming influences, and to improve their minds by education, both general and special, as well as by religious and moral teaching. It is difficult to provide such special treatment in an ordinary jail where the enforcement of discipline and the exaction of labour have necessarily first to receive attention. Moreover, the presence of adolescents in an ordinary jail is inconvenient from an administrative point of view and it seems on all grounds desirable that adolescents should be confined in separate jails and institutions to which no adult prisoner, whether convicted or under trial, should be sent.

Borstal institutions in England.

390. In Great Britain certain measures in this direction have been taken. By the Prevention of Crime Act, 1908, power is conferred on the Secretary of State to establish "Borstal institutions", that is to say, places in which young offenders may be detained and given such industrial and other instruction and may be subjected to such disciplinary and moral influences as will conduce to their reformation and the prevention of crime. By section 1 of the same Act, when any person between the ages of sixteen and twenty-one is convicted, on indictment, of an offence for which he is liable to be sentenced to penal servitude or imprisonment, and if it appears expedient "by reason of his criminal habits or tendencies or association with persons of bad character", the court may, instead of sentencing him to penal servitude or imprisonment, pass a sentence

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of detention under penal discipline in a Borstal institution. When such a sentence is not passed, the youthful offender still goes to an ordinary jail, but in the case of boys whose sentences amount to three months and over, they are collected in certain selected local jails, where they are brought under what is called the 'Modified Borstal' treatment, a term which includes separation from adult prisoners and certain measures of special instruction. In the case of adolescents whose sentences are for less than three months, separation only is attempted. It will be noticed that the description of the class of case which was intended to be committed to Borstal is very general. This was probably intentional in view of the great difficulties which surround any exact definition. The law obviously leaves great latitude to the courts in the selection of persons for committal to a Borstal institution and practice has, in fact, fluctuated considerably.

Reformatories in America.

391. In the United States of America offenders between the ages of sixteen and thirty are in most States collected in what are locally known as 'reformatories.' The maximum period of detention in these institutions is generally subject to the maximum punishment for the crime laid down by the State laws and will generally vary according to the inmate's crime, *e.g.*, three years for misdemeanours, seven years for high misdemeanours and even twenty years for more serious crime; but in every case release after a much shorter period, usually about fifteen months, is possible. Thus at one well-known reformatory the longest period actually undergone of late years was twenty-four months. It is generally admitted by penologists in the United States that release from these institutions has become too mechanical and occurs at too early a date. On this account and owing to the different age-periods adopted and other causes, it is difficult to institute any close comparison between these reformatories and the British Borstal institutions.

Juvenile jails in India.

392. Of recent years in India steps have been taken to collect adolescent offenders whose sentences are not too short in selected jails, Tanjore in Madras, Meiktila in Burma, Alipore in Bengal, Monghyr in Bihar and Orissa, Narsinghpur in the Central Provinces, Dharwar in Bombay, Bareilly in the United Provinces, and Lahore in the Punjab. We visited all these jails, and while conditions and methods vary a good deal, we regard them as a great advance on the previous system of keeping all adolescents in ordinary jails. Unfortunately many adolescents still serve their period of imprisonment in the ordinary and not in the juvenile jail, but separation from adults is, in the case of those under 18, as far as possible, carried out.

Age-periods in Indian statistics.

393. Owing to the fact that Annual Statement No. II lumps together all offenders between the ages of sixteen and forty, accurate information as to the number of adolescents between sixteen and twenty-one who are admitted into Indian jails is not available. We would take the opportunity here of

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recommending that column 4-B. of this Annual Statement should be divided into three sub-columns, one dealing with persons between the ages of sixteen and twenty-one, the next with those between twenty-two and thirty, and the last beween thirty-one and forty. The introduction of these fresh sub-columns will give little extra trouble in jails and it will furnish reliable statistics as to the number of persons sentenced to imprisonment in the various age-periods. In the absence of this information we are unable to say how many adolescent offenders have to be provided for, but we think that it is clearly desirable, for the reasons already given, that all adolescent offenders sentenced to imprisonment should, if possible, be treated specially and shall not be sentenced to an ordinary term of imprisonment.

Adolescents guilty of grave crime to go to juvenile jails.

394. There are, however, great difficulties in the way of placing all classes of adolescents in one class of Special Institution. A period of detention which would be adequate for the ordinary adolescent offender would be quite insufficient for the youth who is convicted of such grave crime as murder, culpable homicide, rape, dacoity and the like, and for those who have relapsed into crime after undergoing a term of detention in a Special Adolescent institution or who are classed by the court as incorrigible criminals. For this class of adolescent we see no alternative but to retain the juvenile jail, a type of institution which is essentially jail-like in character, where labour and education are conducted on jail lines, where remission is earned under jail rules, and where there is no limit to detention except the sentence of the court. We therefore recommend that any adolescent convicted of grave crime of the character above described, when sentenced to transportation or imprisonment, shall be committed to a juvenile, and not to an ordinary, jail.

Special Institutions for other adolescent offenders.

395. For other classes of adolescent offenders we recommend the creation of a class of Special Adolescent Institution which will be essentially reformatory in character and will be for the adolescent what the reformatory school is for the child-offender. Every adolescent who is hereafter sentenced to imprisonment, and who is not sent to a juvenile jail under the preceding paragraph, should be committed to one of these Institutions. These Special Institutions should be for the present at any rate under the control of the Inspector-general of Prisons but power may be taken, as in the Reformatory Schools Act, 1897, to appoint any officer to perform any of the duties of the Inspector-general. Adolescents bound over under the security sections of the Criminal Procedure Code and unable to find the security should be committed to these Special Institutions instead of to an ordinary jail. It should be provided that when simple imprisonment in default of security is awarded under section 123, Criminal Procedure Code, it shall not exempt the offender from liability to the discipline and training of the Special Institution and that committal to a Special Institution will not extend the period for which the adolescent offender was liable to be detained for default of finding security. Power should be taken to remove, as proposed in paragraph 400, from the Special Institution to a juvenile jail any adolescent who is found to be incorrigible or to have a bad influence on the other inmates.

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Female adolescents.

396. It would doubtless be desirable to make similar provision in the case of female adolescents but owing to the social arrangements of India this is much less necessary here than in the West, and on the whole we do not think the problem as regards females is sufficiently acute to necessitate such action, but endeavours should always be made to keep female adolescents in a separate yard entirely apart from adult prisoners, whose influence, even if they are not actually persons of immoral life, must be harmful to young offenders.

Dissent of one member.*

397. One of our Members differs to some extent on this subject. In his view cases do occur for which a short sentence of imprisonment in a juvenile jail is appropriate, and he would prefer not absolutely to tie the hands of the courts by insisting on every adolescent, except those referred to in paragraph 394, being sent to the Special Institution referred to in paragraph 395. He thinks that in many cases it is unnecessary to impose on the State the expense of prolonged detention of the young offender in a Special Institution. If it is intended that adolescents committed to a Special Institution for trivial offences should be released on license after a brief detention there, he would regard such a plan as being contrary to the principles underlying the creation of that Institution. The other Members urge that, when an adolescent offender is first brought before a court, he will, unless the offence is very grave, presumably be dealt with in some way not involving any sentence of imprisonment or detention ; that is, he will either be warned and discharged (as recommended in Section IV of this Chapter, paragraph 440), or released on probation with or without fine or an order of restitution. If he comes up a second time, recourse may again be had to probation or the effect of whipping may be tried. If he again commits crime and the magistrate has exhausted all other methods of disposal, it seems best that the adolescent offender, who has by this time given clear proof of criminal tendencies, shall be committed for a prolonged period to a Special Institution, where reformatory influences will be brought to bear on him. It may be added that, as pointed out in paragraph 411 below, it will be open to the committee to release him at any date after his fitness for release is demonstrated.

Courts to be empowered to commit to Special Institutions.

398. Under the Reformatory Schools Act, 1897, the power to commit to a reformatory school can be exercised only by the high court, a court of sessions, a district magistrate and any magistrate specially empowered in this behalf. The question of the committal of an adolescent offender to a Special Institution is not less important than that of the committal of a youthful offender to a reformatory school, but the number of adolescents to be dealt with is much greater and unless the exercise of the power to commit is entrusted to a wider circle of magistrates, we fear that there will be inconvenience in disposal owing to the number of cases coming before the superior courts. We, therefore, recommend that the power to commit to a Special Institution should be exercised by all first class magistrates and by any second class magistrate specially empowered in this behalf. When the magistrate dealing

*Mr. Mitchell-Innes.

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with the case has not been thus empowered he should, as under section 9 of the Reformatory Schools Act, 1897, submit his proceedings to the magistrate to whom he is subordinate.

Transfer from ordinary or juvenile jails to Special Institutions.

399. The above applies to direct committal, and if, as we recommend, all adolescent offenders instead of being sentenced to transportation or imprisonment are committed direct to juvenile jails or Special Institutions, no other cases will arise ; but unless and until that recommendation is given effect to, cases will occur in which it may be desirable to remove from an ordinary or from a juvenile jail to a Special Institution an adolescent offender who has been committed to the former class of institution. In such cases it should be open to the superintendent of the jail to bring the offender before the district magistrate within whose jurisdiction the jail is situated, and the district magistrate may order the removal of the adolescent offender from the ordinary or juvenile jail to a Special Institution for adolescents, for any period for which he might have been originally committed to such institution.

Transfer from Special Institutions to juvenile jails.

400. If an adolescent detained in a Special Institution is found to be incorrigible or to be exercising a bad influence, there should be power to remove him from that Institution to a juvenile jail. In England such removal can be ordered by the Secretary of State under section 7 of the Prevention of Crime Act, but in this country it would seem better to entrust this function to the district magistrate, within whose jurisdiction the Special Institution is situated. The district magistrate should have power not only to order the transfer of the adolescent to the juvenile jail, but also to make such order regarding the imprisonment to be there served as the circumstances of the case may demand.

Nomenclature in Special Institutions.

401. In order to emphasise the fact that the Special Institutions for adolescents are not prisons, we recommend that the adolescents detained in these Special Institutions should be termed inmates, as in the English Borstal institution, and not prisoners, and that prison terminology should be, as far as possible, avoided. The head of the Special Institution who should be a full-time officer may indeed be termed "superintendent" because that word is by no means exclusively of prison application, but the terms "jailor" and "assistant jailor" should not be used. We suggest that the officer answering to the jailor may be termed "deputy superintendent" and the officers answering to assistant jailors should be termed "assistant superintendents," or any other terms may be selected which are different from those employed in jails. We have not found any very suitable substitute for the term "warder" but perhaps hereafter one may be devised.

Selection of staff, and dress of inmates.

402. It seems to be quite clear that the officers to be appointed to these Special Institutions will have to be selected with special care. It will not be easy to find men who will possess the necessary qualities, the power to maintain

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and enforce strict discipline in combination with the sympathy with young adolescents which will be required to make these special institutions a success. It has been suggested that the type of man required for the post of superintendent is that of a naval officer accustomed to handle cadets. Evidently a mere school-master, unless of an exceptional type, would be unsuitable, equally so a man whose sole conceptions of management were drawn from jail. The free exchange of men between prisons and Special Institutions would be undesirable but we would not debar jail officers of a suitable class from employment in these Special Institutions. In the course of our inquiries we have come across more than one jail official who has proved himself to be well fitted for this work. We would emphasize the fact that the selection not only of the superintendent but of the whole staff should be made from as wide a field as possible. The duties of an officer in a Special Institution are of a special character and an officer who has once been found well fitted for such duties should be there retained. We attach importance to the point that the prison atmosphere and prison taint should not be imported. The dress adopted in the Special Institution should be of a uniform pattern but it should not be the jail clothing of the Province.

Maximum population and reformatory influences.

403. The principal object of the Special Institution being the reformation of the adolescents detained there, all the details should be arranged to that end. If it were possible it would be best that none of these Institutions should have a population of more than 250, but if this is found to be impracticable we should certainly recommend that the maximum accommodation should, in no case, exceed 500. With the details of education we do not feel qualified to deal and they will doubtless be determined by the officers of the Education Department under whose inspection the educational arrangements in these Special Institutions should, we think, be brought. The regular education should be supplemented, as far as is possible in this country, by lectures (with lantern illustrations when practicable), concerts and the like. Every Special Institution should be provided with a sufficient library and the habit of reading should be as far as possible encouraged, the inmates being allowed to borrow books freely and to change them as often as can be conveniently arranged. The provision for religious and moral instruction which we have advocated for jails generally should receive special attention in this class of Institution.

Occupation and training.

404. The forms of occupation to be provided in the Special Institutions should be chosen with special reference to the object of fitting the adolescent for life outside. Merely mechanical occupations, such as the making of quinine tablets or packing of quinine packets, which are at present followed in the Juvenile Jail at Alipore, should be avoided. Carpentry and blacksmith's work often furnish a valuable training which is of use to men whatever line of life they may afterwards pursue. In some parts of India there is a steady demand for fitters, or motor mechanics and there training directed to equip the adolescent for such work would be suitable. Elsewhere, trained gardeners command good wages, and a training in gardening would be useful. Agriculture must always be an occupation of much value in India, and where it is possible to attach a small farm to a Special Institution that should be done.

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Physical exercises and drill.

405. In order to train the inmates in habits of discipline and to improve their physical condition, very great importance should certainly be given to drill, physical exercises and gymnastics. While we deprecate the organisation of the Institution on a military basis, we think that physical exercises such as are now prescribed in the army are likely to be most useful and that a certain amount of drill, though of less value, accustoms the adolescents to prompt obedience to words of command and to combined movement. A band should form part of the organisation of every Special Institution, as many youths might be thereby fitted for enlistment in military bands.

System of grades.

406. For the encouragement of self-control and self-reliance, we recommend the introduction of a regulated system of grades, as employed in the English Borstal institutions. The most suitable plan is, we think, to place the new arrival in the ordinary grade, providing for his promotion to higher grades as the reward of industry and for liability to reduction to a lower grade as a punishment for misconduct. The question whether the prefect or monitorial system should be introduced is one on which opinions differ to a marked extent and no definite rule on the subject is, we think, necessary. It is a matter which, if the superintendent is properly selected, can be left to his personal judgment.

Gratuities, recreation, etc.

407. It is very necessary to keep in view the fact that the inmates of these Special Institutions are in a few years to be released and sent out into active life. Every endeavour must, therefore, be made to prevent the deadening effect which often follows from institutional life. With this object in view, it is, we think, desirable that the inmates in the higher grades should be allowed to go out unattended, subject to reasonable limits of time and distance, and should in other ways be trained to respond to trust and confidence. For similar reasons we advocate their being given reasonable amounts of money, sa that they may learn how to use it prudently. A small monthly gratuity should be attached to each of the higher grades and, in addition, as soon as an inmate has achieved a certain degree of proficiency in whatever occupation he is employed, he should be granted a small but regular trade-allowance, proportionate to his industry. A portion of this money should be reserved for disbursement to the adolescent on release either in a lump sum or by instalments ; the remainder he should be permitted to spend at his discretion so long as nothing objectionable is purchased ; books, writing materials, sweets and food should be freely allowed to be purchased. Each inmate should be allowed a locker or box in which to keep his private possessions. All harmless games should be permitted and, if possible, a ground for outdoor games and a recreation room should be provided inside the Institution. We are not in favour of the prohibition of talking at any stage but loud talking, laughing and singing must necessarily be forbidden.

Mental and physical examination.

408. For the success of a Special Institution such as is here described, it is necessary that boys of defective intellect should not be admitted, as they tend to keep back the more intelligent and generally to clog the working of the institution

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The ideal arrangement would be the provision of a sorting house where all adolescents would be received, examined and classed according to their fitness or unfitness, but this being impossible, we think that the examination of the mental and physical condition of the adolescent should take place after his arrival at the Special Institution. As we have elsewhere pointed out, the establishment of homes for mental defectives is very necessary.

Punishments.

409. For the maintenance of order and discipline in the Special Institution summary powers of punishment must be conferred on the superintendent. The first and commonest type of punishment should be reduction in grade and deprivation of privileges for stated periods. This would, as in England, comprise different varieties, *e.g.*, stoppage of gratuity, suspension of the right to spend money or to play games, deprivation of the privilege of receiving letters or visitors and so on. Further punishments would be the imposition of some form of hard labour, such as grinding grain, for some fixed period not exceeding six days or a working week at a time, extra drill or physical exercises, penal diet for twenty-four hours, separate confinement for periods not exceeding fourteen days at a time and corporal punishment in the manner of school discipline. This last should be reserved for grave offences. The final punishment for continued and incorrigible misconduct would be removal from the Institution and remand to a juvenile jail. This may, in accordance with our recommendation in paragraph 400 above, be ordered by the magistrate of the district in which the Special Institution is situated.

Period of detention.

410. In order to give sufficient time for the reforming influences brought to bear in the Special Institution to have effect, it is essential that the term of detention in the Special Institution shall be prolonged. All authorities are agreed on this point. In England, the minimum period of detention in a Borstal institution was, by the Prevention of Crime Act, 1908, fixed at one year. This, however, was found to be insufficient and it has since been raised to two years, and opinion was generally in favour of a still higher minimum. In the juvenile jails which we visited in India there were general complaints as to the futility of a system which sent boys to these prisons for such periods as three or six months, it being found impossible to make much impression on a boy in that time. If it is objected that a hardship would be created by sending an adolescent offender to a Special Institution for several years when he might otherwise be supposed to have expiated his offence by three or four months' imprisonment in jail, we would point out that the Special Institution is not a jail but something different, where the reformation of the adolescent is the principal object in view. There can be no reasonable doubt that reformation cannot be effected in three or four months. Moreover, the principle of prolonged detention has been adopted in the Reformatory Schools Act, 1897, and if such prolonged detention is needed in the case of youthful offenders under the age of fifteen, still more is it necessary in the case of adolescents. We accordingly recommend that the minimum period of committal to a Special Institution shall be three years and the maximum five years, to be followed by a further period of supervision, as provided in section 6 of the Prevention of Crime Act, 1908.

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Licensing.

411. This recommendation is not intended to imply that every adolescent is to be detained in the Institution for at least three years. At Borstal we were informed that, owing to the special conditions arising out of the war, the average period spent there by an inmate was then only nine months, a stay which was generally held to be too short, a period of at least eighteen to twenty-four months being regarded as desirable. In India we recommend the adoption of the same system of release on license as is recognised by section 5 of the English Act. Ordinarily, an inmate would not be released on license until he had reached the highest grade but cases may occur when it may be desirable to waive this condition and to allow an adolescent to be licensed at an earlier stage. It is evidently undesirable that any inmate of a Special Institution should be licensed unless it is believed that there is a reasonable probability that he will abstain from crime. When the superintendent and the committee of visitors mentioned in paragraph 414 are not satisfied on that point, the adolescent must be detained in the Institution, if necessary, up to the maximum period allowed by the court's order. On the other hand, as soon as they are satisfied that an inmate fulfils the above condition, there is no objection to his being licensed. Every endeavour should be made to find work for inmates who reach this stage, but no adolescent offender should be released on license until employment outside has been found for him.

Breach of license or relapse into crime.

412. If the adolescent to whom a license is granted breaks the terms of the license, the license will be liable to be revoked or cancelled. Power to cancel a license as provided in England by section 5 (3) of the Prevention of Crime Act, 1908, should be vested, we think, in the Inspector-general of Prisons, and upon cancellation of the license the licensee should become liable to return to the Special Institution to complete the period of detention to which he was liable under his original sentence. We consider, however, that when an adolescent, after passing through a Special Institution, and completing either in the Institution or on license, the full period of detention ordered by the court, commits fresh crime, he should not be again committed to a Special Institution. In such a case the adolescent has been given a full chance and has failed to take advantage of it. We would, therefore, recommend that he should on any future occasion be sent to a juvenile prison.

After-care.

413. The system of after-care to be exercised over ex-inmates, both during the period, if any, spent on license and afterwards, is one of the most important points connected with the scheme of Special Institutions. As far as we could judge, the provision for the after-care of inmates discharged from the Borstal institutions of Great Britain is the most valuable feature of the English system. An account of the work of the Borstal Association and of the Borstal system generally in Great Britain is given in some detail in Appendix IX to this Report. We wish to insist very strongly on the importance of developing in India some corresponding method for assisting and watching over adolescent offenders released from Special Institutions.

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Committees of visitors.

414. We think that a committee of visitors largely composed of non-officials should be attached to every such Institution. Large employers of labour in the neighbourhood should be invited to join this committee and selection for membership should be based more on ability to help the work of the Institution than on mere social or political prominence. In this way non-official support will be gained. When an inmate is about to be released, the members of the committee should be invited to assist in finding him work and afterwards to help in the work of keeping in touch with the released inmate. Endeavours should be made to form associations on the English model, for the after-care of released adolescents and an active propaganda should be resorted to in order to excite public interest in the subject.

Official agents attached to Special Institutions.

415. We think, however, that it will probably be necessary in this country to supplement these non-official agencies by direct official agents. This is the system followed in the United States where voluntary associations for the relief of discharged persons apparently have had little success. We accordingly recommend that one or more official agents of the type described below in Chapter XVI under the title of parole officers should be attached to each Special Institution. It should be the duty of such officer to visit each released inmate at regular intervals, to give him any advice and assistance he may require, to ascertain that he is working steadily and not associating with bad characters, and generally to keep in touch with the released adolescent in a discreet and helpful manner. It will also be the duty of the parole officer to satisfy himself that the conditions laid down in the license, if any, granted to the adolescent are being duly observed and to report promptly to the superintendent of the Special Institution any breach of those conditions.

Salvation Army Homes.

416. In Burma and in Bombay an attempt has been made to provide for adolescent offenders in homes opened by the Salvation Army. In both cases the prisoners to be sent to these homes are selected by the superintendent of the jail and a conditional order of release is passed by the local Government under section 401 of the Code of Criminal Procedure. The adolescent is transferred to the home during the period of his sentence and a conditional order of release is made by the local Government, allowing him to be released from prison on condition that he shall remain in the home till his sentence expires.

The Rangoon Home.

417. The Salvation Army Home in Burma is in a bungalow on the outskirts of Rangoon. It was opened in October 1916 and at the time of our visit there were 27 inmates. Adolescents convicted of such serious offences as robbery, grievous hurt, and attempt to murder are received. The authorities generally stipulate that any prisoner sent to them shall have an unexpired sentence of at least one year. Altogether 84 cases have been dealt with, or deducting the

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number still in the institution, 57. Of these 6 had died, 8 had been returned to jail as unsuitable, 3 had been reconvicted after discharge, and 13 could not be traced. This leaves 27 as the number of adolescents who were known to be doing well. The officers of the Salvation Army in charge of the institution complained of the insufficient information furnished to them by deputy commissioners regarding the subsequent career of adolescents released from the home, but they also said that only one boy had complained of having been molested by the police. During their stay in the home the inmates are given both a literary and technical education, carpentry being the chief form of industrial training provided. The inmates are locked in at night but are allowed to go out by day and play football in a field near the home. They are given a small monthly gratuity which they are allowed to spend. The home seemed to be doing useful work and the officers of the Salvation Army in charge seemed to be keenly interested in the work and specially capable.

The Bombay Home.

418. The home maintained by the Salvation Army in Bombay is less favourably situated than the one in Rangoon, being in the heart of the city. It is chiefly used for boys under sixteen who are sent here on conditional release by the magistracy, but there was a small number (five on the date of our visit) of adolescents from the Juvenile Jail at Dharwar. The boys over fourteen receive no education except an hour of night school from 7-30 to 8-30 and are employed during the day on hand-loom weaving, an arrangement which we cannot consider altogether satisfactory. The general impression we received of this institution was not very favourable, but we understand that its working had been seriously interfered with by the war.

Finger prints, P. R., P. R. T., and K D. prisoners.

419. There remain two matters which require attention. One is the question of taking the finger prints of the inmates of Special Institutions for Adolescents. We found much diversity of practice on this point but it seems to be clearly desirable that the finger prints of all adolescents sent to a Special Institution should be taken and sent to the Central Bureau, with clear indication of the institution of origin, so as to facilitate identification in the event of reconviction. The second matter relates to the system under which certain classes of prisoners known in some Provinces as ' P. R.' or ' Police Registered,' in others as ' K. D.' or ' Known Depredators,' and in others under other names, are dealt with. These prisoners are generally divided into two classes, one including persons who are transferred for release to the jail nearest their homes (' P. R. T.') and the other including persons who are not so transferred but regarding whose release special notice is sent to the police before the date arrives. In some Provinces we found that adolescent offenders are classed as ' P. R.' or ' P. R. T.' and dealt with accordingly. We think that it is undesirable that this practice should be continued in regard to releases from a Special Institution for Adolescents.

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Section III.—Probation.

Probation in America.

420. The subject of probation has already been noticed in connection with the child-offender and the adolescent, but there are special aspects of the matter, as applied to the adult criminal, which require some attention. In the United States of America this method of dealing with the grown-up offender has achieved a great development of late years. It is generally held there that to be beneficial the period of probation should not be less than one year. The release of a prisoner on probation was at first intended to be applicable to the first offender only but it is no longer so restricted. In the State of New York three-fourths of the persons placed on probation have some previous conviction on record against them. In one city in that State 46 per cent. of all persons convicted by juries of felonies, from manslaughter in the first degree downwards, are placed on probation. In the State of Massachusetts 30,588 persons were placed on probation in the year 1917, this total including 14,201 cases of drunkenness, 3,289 cases of larceny, 1,631 cases of non-support, 1,188 cases of breaking and entering, 1,114 cases of assault and battery, besides smaller numbers of such grave crimes as, forgery, robbery, receiving stolen property, incest, rape, sodomy, and even in one case, murder. Thus in some of the United States the system of release on probation is now extended to all crimes.

Advantages claimed for probation in America.

421. The value of probation as a substitute for imprisonment is strongly insisted on by those who favour this method, notably the authorities of the Probation Department, who naturally believe in the beneficent effects of their own activities. They claim that to have control, for a considerable period of time and under thorough supervision, of an offender who is living otherwise his normal life is a much likelier means of producing reformation than commitment to a penal institution. Accordingly it is claimed that a large percentage of success is obtained in dealing with persons placed on probation. Statistics are published indicating that in the State of Massachusetts 77 per cent. of the persons so treated pass successfully through their probationary period without coming again before the courts. Nor is a second conviction by itself regarded as necessarily a bar to the use of probation. A single lapse, or even several lapses, do not prove, it is urged, that the individual is not striving to become a good citizen or is one who deserves punishment. Public opinion in America seems to be more inclined to regard such relapses with tolerance than in other parts of the world. It is a part of the general optimism of the country.

Restitution combined with probation.

422. Other claims made for the probation system in the United States are that it is an important means of enforcing restitution on the part of the offender. What could be more irrational, it is asked, than to allow a man who has secured large profits or has caused

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serious loss or damage by crime, to obtain security from further proceedings by serving a shorter or longer period of imprisonment? Is it not better to release him on probation and to force him to make restitution? Under the system now followed in many parts of the United States the offender has to work under the supervision of the probation officer and the amount he is ordered to repay is recovered through that officer. Thus during 1916-17 restitution was made by offenders under probation in Cook County, Illinois, to the extent of 79,447 dollars. Or again, probation can be associated with fine payable by instalments. In this way one court in Indianapolis recovered 27,410 dollars in three years, and in Buffalo City the annual recoveries by way of fine and restitution from persons on probation amount to 50,000 dollars. The same figure was mentioned in Chicago, and 25,000 dollars in San Francisco. There seems to be much to be said for a method which compels an offender to make restitution when the offence is one for which such a form of penalty is adequate. In America probation officers are largely used to collect the contributions ordered by the court to be made by defaulting husbands to the support of their families. In 1918 no less than 485,339 dollars were thus collected in the State of Massachusetts.

Saving effected by use of probation.

423. Again, great stress is laid on the saving to the community achieved by the system of release on probation. For instance, in Massachusetts in 1918 the annual cost of a prisoner in jail is placed at 385 dollars, while that of a case on probation is placed at 19 dollars. The reduction in cost on a large number of persons is very great; thus in Massachusetts in 1918 there were 24,017 persons on probation, and the saving effected by the adoption of this method in lieu of imprisonment would amount to 8,790,222 dollars a year. It is also pointed out that the earnings of a man under normal conditions and out of prison are on the average far larger than any profit from his labour in prison, and a large balance of advantage to the community is shown on this account. These calculations of earnings must necessarily possess a somewhat fanciful or hypothetical character, but when all allowances are made, there seems to be no reasonable doubt that the probation system represents a very substantial economy.

Probation and social work.

424. The American probation authorities further declare that, apart from the salvage of the offender at the beginning of his criminal career and the saving to the State effected by keeping him out of prison, the creation of the Probation Department has rendered it possible to carry on investigation into the causes of crime and delinquency. "It has attracted to itself men and women of high social instinct and desire to help others. The work is not all of a sordid sort. A great deal of it is done on the high plane of a desire to deal humanely with the ignorant, helpless and unfortunate and with the erring young." In fact, it seems to be regarded as an extension of the activities of the criminal administration into the regions of philanthropy.

Probation staff.

425. For the performance of these varied and responsible duties an adequate staff of probation officers is evidently necessary. In the report (submitted in

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1918) of a Committee appointed in New York State, the importance of individual treatment by a probation officer was emphasised and it was laid down that no single officer should be required to deal with an average of more than fifty cases, it being added that the number should be less if the officer has to perform other duties, such as the conduct of preliminary investigation, attendance at court and clerical work. In practice this standard has not always been attained. The Committee above referred to found that in many courts probation officers were attempting to supervise from one hundred to four hundred probationers in addition to special work. Again, in the city and county of San Francisco with one chief and six assistant or deputy probation officers, there were 968 adult probationers on the 31st December 1918. Demands for an increased staff of probation officers are a frequent feature of American reports and in consequence of the inadequate number of officers provided, the working of the system has in some areas fallen into disrepute.

Importance of preliminary examination.

426. In the working of the system much emphasis is laid on the need for careful preliminary investigation to elucidate the salient facts regarding his family, past history and present environment, before an offender is placed on probation. "Physical, mental and psychological examinations, if possible before persons are placed on probation, or of the greatest assistance to the probation officers; in many cases such examinations are indispensable to proper treatment....Mental examinations in many instances show abnormal conditions which make the placing of persons on probation unwise and lead to their commitment to institutions instead. Where mentality is such that probation may be used, such examinations aid in determining the plan of treatment which may lead to the remedy of conditions causing an abnormal mental state. With knowledge gained through mental examinations probation officers may be able to adjust defective individuals to their environment." The Special Committee of the State Commission of Prisons, New York, in a report on the subject of mental disease and delinquency submitted in 1918, recommended—"That all children brought before the court charged with delinquency or improper guardianship be examined mentally, the examination to be either in a clinic attached to the court or in a central clinic to be provided, and those found feebleminded to be committed to proper institutions if in need of institutional care. That all adults convicted of offences less than felony and all adults convicted of felony and released under suspension of imposition of execution of sentence, be examined mentally in the discretion of the judge at a clinic attached to the court or at a central clinic." The insistence on this need for preliminary investigation is a leading feature of the American methods of the present day.

Probation and its influence on crime.

427. The foregoing account of the probation system in the United States illustrates the great extension it has there received. As a corrective to the tendency to clap into prison every offender against the criminal law, it deserves careful consideration. In cases in which a pecuniary penalty furnishes an adequate punishment for crime, the probation method has many advantages. But it is a question whether this policy has not been carried too far in America. One

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experienced magistrate with whom we had an interview denounced the system in strong terms. It seemed to be thought, he said, that every man is entitled to one crime as he is to one wife ; he declared that there is more crime in his State than ever before and that not 10 per cent. of it is detected ; the system, he thought, works well with the young but with the adult it is a failure. The weakest point in the reports of the American Probation Departments is the fact that while giving most encouraging information as to the results of probation, *i.e.*, as to the conduct of persons while on probation, and showing that only 10 per cent. commit default, they give no information on the crucial question whether crime considered in relation to population and other relevant factors, is increasing or decreasing. We endeavoured to obtain statistics on this point but without success, and in their absence there are not sufficient data to form an opinion as to the success or failure of American practice in this respect, though it certainly seems to afford a basis for a considerable measure of advance in India, where such a great proportion of total crime is committed by first offenders.

American courts and the probation system.

428. Various forms of legislation have been resorted to in the United States to legalise the probation system. Thus in the State of Indiana a law of 1907 gives the courts power to suspend sentence or to withhold judgment in the case of persons charged with any crime except murder, treason, arson, rape, burglary and kidnapping. The law varies from State to State. Sometimes it applies only to minor offences, sometimes only to a first offender, and sometimes only to a first conviction for felony. In a case where the law is applied it is usual for the court, after the guilt of the accused has been established, to grant an adjournment, of from three to seven days, before sentence is pronounced. This period is employed by the probation officer in making inquiries into the prisoner's previous history, the circumstances leading up to the commission of the crime of which he has now been convicted, his family circumstances, physical and mental condition and the like. A report on the results of this enquiry is drawn up and is placed before the judge, who then has the prisoner before him and before disposing of the case questions him as to any extenuating or aggravating circumstances appearing in the report. Under the American practice no copy of the probation officer's report appears to be furnished either to the prosecution or the accused, but counsel on both sides are usually present when the judge questions the accused and can take exception to any statement which the judge may read out from the probation officer's report. A Special Committee of the State Commission of Prisons, New York, in a report submitted in 1918, held that any reports of preliminary investigation submitted by a probation officer to the judge should be treated as confidential and considered that it would be open to serious objection to put into the witness-box an officer who might subsequently be entrusted with the supervision of the offender.

Probation in England—The Probation of Offenders Act, 1907.

429. In Great Britain the release of criminals on probation is regulated by the Probation of Offenders Act, 1907. This provides that when any person is charged before a court of summary jurisdiction and the court thinks the charge is proved, but that, in view of the character, antecedents, age, health

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or mental condition of the person charged, or the trivial nature of the offence, or the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment or any other than a nominal punishment or that it is expedient to release an offender on probation, the court may, without proceeding to a conviction, make an order dismissing the charge, or discharging the offender conditionally on his entering into a recognizance with or without sureties to be of good behaviour and to appear for conviction and sentence when called on at any time within such period, not exceeding three years, as may be specified in the order. The same Act gives similar power, when a person has been convicted on indictment of any offence punishable with imprisonment, to release the offender conditionally on his entering into a recognizance. In either case the court may, in addition to any order such as noticed above, direct the offender to pay such damage for injury or compensation for loss and such costs as the court thinks reasonable, and if the offender is under the age of sixteen and it appears that the parent or guardian has conduced to the commission of the offence, the court may order such payment to be made by the parent or guardian. There is also power under this Act to include, in the recognizance above referred to, additional conditions prohibiting the offender from associating with bad characters, from frequenting undesirable places, from indulgence in intoxicating liquors if the offence related to drunkenness, and generally securing that the offender shall lead an honest and industrious life. Further provisions enable the court to direct that the offender shall be under the supervision of such persons as may be named in the order, and power is given to appoint probation officers of either sex for each petty sessional division and, where circumstances permit, special probation officers, to be called children's probation officers, for the supervision of offenders under the age of sixteen. The Act also contains provisions regarding the duties of probation officers, deals with the case of offenders failing to observe the conditions of the probation order, and gives power to vary the conditions of release as well as authority to make rules.

English opinion regarding probation.

430. A considerable number of offenders are released on probation in Great Britain, though this method of disposal has not been resorted to on the same extensive scale as in the United States. It has been more largely used for juveniles than for adult offenders, and it is generally held that the advantages of probation are greater in the case of the former while there is less immediate risk in releasing children than in releasing adults. Thus, Mr. Cecil Leeson, the author of a book called "The Probation System," who gave evidence before us, expressed the opinion that the system was particularly advantageous in the case of adolescent offenders between the age of sixteen and twenty-one. There seems, however, to be an opinion in England that there is room for extension of the probation system also in the case of adult offenders. Thus, Sir Evelyn Ruggles-Brise strongly advocated the introduction of a properly organised probation system, under centralised control, for dealing with adult prisoners and stated that he regarded probation as an essential part of the criminal administration and wished to see it further developed, provided that arrangements were made for strict control over the probation officers, and

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Similarly, the Reverend S. P. H. Statham, Inspecting Chaplain of Prisons, Home Office, thought that the system of probation for adults was not sufficiently applied in England and he said he would like to see a body of philanthropists appointed to press upon the magistracy the advantages of this method of dealing with criminals. It will thus be seen that the value of probation as a means of disposal of either the juvenile or the adult offender is recognised in Great Britain as well as in the United States.

Probation in India—section 562, Criminal Procedure Code.

431. In India the release of offenders on probation is regulated by section 562 of the Code of Criminal Procedure. This section was first introduced into the Code in 1898 and was based on section 1 of the Probation of First Offenders Act, 1887, (50 and 51 Vict., c. 25), which has been replaced by the Probation of Offenders Act, 1907 (7 Edw. VII., c. 17). Under this section release on probation is limited to offences under the Indian Penal Code punishable with not more than two years' imprisonment, to which are added theft, theft in a building, dishonest misappropriation and cheating; it cannot be resorted to if a previous conviction is proved against the offender; in using it, regard is to be had "to the youth, character and antecedents of the offender, to the trivial nature of the offence, and to any extenuating circumstances in which the offence is committed;" finally, the power to proceed under the section can only be used by courts not of lower grade than magistrates of the first class or by second class magistrates, if specially empowered in this behalf.

Its application by the courts in India.

432. It is evident that the restrictions imposed by the terms of this section greatly limit resort to this method of disposing of offences. As it stands, section 562 of the Criminal Procedure Code is applicable only to offences under the Indian Penal Code and this prevents its use in many of those classes of cases for which it is particularly suited, for example, the numerous petty offences such as committing nuisances, begging, gambling and the like, which have been created under the various Police Acts, or the Acts regulating local and municipal administration in the Provinces of India. Again, the restriction to trivial offences has prevented the section from being applied to more than a few crimes under the Indian Penal Code. Certain local Governments, especially those of Burma and Madras, have in their reviews of the reports on criminal justice in recent years urged the desirability of more extended use of the section, but it may well be doubted whether, as it at present stands, any very great extension of the method of release on probation is possible.

Proposed revision of the section.

433. The subject was considered by the Committee appointed in Home Department Resolution No. 1108-Judicial, dated the 18th September 1916, to consider the opinions received on the question of the general revision of the Code of Criminal Procedure. Under section 562, as proposed by this Committee, release on probation will be allowed in respect of any offence, whether punishable under the Indian Penal Code or under any special or local law, which is punishable with imprisonment for not more than three years, and also in the

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that adequate safeguards against the abuse of the system were introduced. case of offences punishable under sections 317, 325, 335, 380, 381 and 420 of the Indian Penal Code. It is provided that if no previous conviction is proved against the accused and if the court, having regard to the offender's age, character or antecedents and the circumstances in which the offence was committed, considers this course expedient, it may release the offender on a bond to appear and receive sentence when called upon within any period not exceeding three years, and in the meantime to keep the peace and be of good behaviour. We accept as generally suitable the proposals here made as to the class of offences to which the system of probation is to be applicable, but we are of opinion that it is necessary to take into account not merely the two or three considerations, age, character and antecedents, which are mentioned in the section but the whole of the circumstances bearing on the case. These should include, besides character and antecedents, such matters as the conditions of the offender's home and other circumstances constituting his environment, his physical and mental condition and any special mental or physical strain to which he may have been exposed, together with any extenuating circumstances leading up to, or connected with, the crime. If it is found that there is difficulty in specifying all these matters in the section, it might be possible, instead of attempting an imperfect enumeration, to provide that this method of disposal may be used when the courts, having regard to all the circumstances of the case, think it appropriate. We agree with the proposal of the Committee that the period of probation may extend to three years. We think it is very important that there should be power in the section to require an offender who is placed on probation to pay a fine or damages for injury or compensation for any loss caused, and to be subject to any other conditions which may from time to time be authorised by the local Government for inclusion in the probation order. Such conditions will doubtless extend to the matters mentioned in section 2 (2) of the English Probation of Offenders Act. It is possible that some plan may be hereafter devised, under which persons placed on probation and sentenced to fine or ordered to make restitution should be required to give some hours of labour per diem towards the liquidation of this obligation. This labour might be exacted either in a municipal workshop or under other arrangements. In this connection attention may be drawn to the system of labour in lieu of imprisonment, which is in use in Egypt and which is described in Appendix XII, and to the remarks in paragraph 444 below. Power should be added to enable the court, where a breach of the conditions of probation has occurred that has not been of so serious a nature as to necessitate the entire forfeiture of the recognizance, to escheat a part only of the recognizance, while still allowing the offender to remain on probation.

Introduction of the probation system into India recommended.

434. In Great Britain and in America the practice as already noticed has been to appoint special officers to exercise supervision over persons released on probation. Great importance is attached to this supervision by all who have paid attention to the subject in those countries and we also were impressed by the advantage which the existence of a properly selected force of probation officers confers on the working of any system of release on condition of good

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behaviour. In India where the system of probation officers has not hitherto existed, considerable difficulty may be experienced in finding suitable persons for the post, but we certainly think that an attempt should be made in this direction. We have touched upon this subject in the Section of this Chapter dealing with the child-offender and have there proposed that the appointment of probation officer should in the first instance be made in large towns. In other parts of the country it may be necessary for the present to allow the system of release on probation to be carried out as it now is without any formal agency for supervision, but we would record the opinion that the probability of the successful working of the system would be much enhanced if it were possible to secure a supply of suitable probation officers. We think, further, that there is no reason why in India, as in the other countries where probation is used, there should not be power to recognise private individuals as voluntary probation workers although for reasons already noticed, this method is subject to certain limitations and disadvantages. In England the Criminal Justice Administration Act gives power to recognise and subsidise societies for the care of youthful offenders on probation, and it is possible that if similar provisions are introduced in India they may have a good effect. It is to the societies engaged in social work that it will probably be necessary at first to look for a supply of persons suitable for employment as probation officers and presumably the local Government will begin by utilising the services of those individuals who have already shown an interest in the subject or a readiness to take up social work. We would here notice the fact that there is a very general opinion among authorities interested in the matter that it is not desirable to employ the police in the capacity of probation officers. It should be clearly understood, also, that when a person has been released on probation by the courts, the police should not exercise surveillance over him, or interfere with him in any way, unless he commits further crime.

Information necessary for the courts.

435. When it is proposed to place an offender on probation it is desirable that the court should be in possession of the fullest possible information regarding the case before an order under section 562 is made. For this purpose the probation officer who is attached to the court should be required to make inquiries regarding the offender's previous history and home life. The information thus collected should be given by the probation officer in open court. We doubt whether the American system, under which such reports are made privately to the judge and are not necessarily placed at the disposal even of the accused, would commend itself to Indian opinion. On the other hand, it is clearly undesirable that the sources of the probation officer's information should be made public, and we are inclined to think that he should be protected from liability to be called on to reveal the names of his informants except to the court. One of our number* dissents from this view as being likely to prejudice the nature of the sentence. It will be remembered that this inquiry will take place after the question of the guilt of the accused has been established, and that the probation officer, as an officer of the court, occupies a position different from, and more responsible than, that of the ordinary witness. If he

* D. M. Dorai Rajah of Pudukottah.

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abuses his trust, it will be within the power of the court to inflict punishment by dismissing him from his post.

Selection of cases suitable for probation essential.

436. It is, of course, necessary that the courts should exercise their discretion wisely in the selection of cases to be placed on probation and we think it might help them if a pamphlet were drawn up pointing out the rationale of the system and indicating in general outline the classes of cases which are, and which are not, suitable for this method. In particular, it should be pointed out that it is useless to place on probation persons of defective intellect. The feebleminded who have drifted into crime through sheer inability to earn a living will, it seems clear, be liable to take the same course again unless some arrangement can be made with friends or relatives for their protection. Otherwise, the only proper remedy is the provision of suitable institutions for persons of this class and at present no such institutions are known to exist in this country. The disposal of these cases will, therefore, continue for some time to present very considerable difficulties.

Section IV.— Fines, Short Sentences and Other Points.

Removal of compulsory imprisonment under Indian Penal Code.

437. By putting an end to sentences of imprisonment on child-offenders, by providing special institutions for the adolescent offender, and by the more extended use of probation both for adult and juvenile criminals, some reduction will, it is hoped, be effected in the number of persons committed to prison ; but there are other directions in which action may be taken to achieve the same object. The most obvious of these is the revision of those sections of the Indian Penal Code under which it is obligatory to award imprisonment for certain offences. These provisions are open to criticism from various points of view. If the punishment should be suited to the crime and the criminal, then an attempt to lay down a hard and fast rule that a particular form of punishment must attach to a particular crime seems generally to be contrary to principle. If it is best to give the courts a wide discretion to assign punishment, then such an interference with the court's discretion is unwise. If it is admitted that circumstances so alter cases that even serious offences can sometimes be best dealt with by placing the criminal on probation, a provision which renders this impossible is to be deprecated. Finally, if imprisonment is an evil to be avoided when possible, a rigid provision requiring its imposition regardless of all other considerations is objectionable. As an instance of the results which follow from the existing state of the law, reference may be made to section 325, Indian Penal Code. If two men commit a breach of the peace by fighting, a sentence of fine is generally regarded as adequate ; but if one man has a tooth knocked out, the court, if it convicts, must, under section

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325, Indian Penal Code, award imprisonment. The courts, it is true, can and do get round these provisions of the Code by awarding imprisonment "for one hour" or "until the rising of the court," but to force the courts to resort to such methods seems undesirable and we should prefer to see these sections of the Indian Penal Code amended, so as to leave the question open. Such an amendment could apparently be carried out without difficulty by directing the substitution of the words "or with fine or both" for the words "and shall also be liable to fine," wherever they occur.

Procedure in levy of fines.

438. The number of persons sentenced to fine in British India in the five years ending 1916 averaged nearly 775,000 per annum. No statistics seem to be available as to the number of persons included in this total who are committed to prison in default of payment of fine, but it seems probable that the proportion is not inconsiderable, judging from the fact that of the total fines imposed a large sum is not realised. Under section 388 of the Code of Criminal Procedure, when an offender has been sentenced to fine only and to imprisonment in default, the court may, if it issues a warrant under section 386, suspend the execution of the sentence of imprisonment and release the offender under recognizances for not more than fifteen days from the time of executing the bond, so as to give him time to pay the fine. The evidence we received varied a good deal as to the extent to which this power to release is made use of by the magistracy. Some witnesses thought that there is a tendency on the part of some magistrates not to grant time for payment of fine because to do so involves extra work to themselves and their establishments. For them the easiest course is to make out a warrant of commitment to the jail at once, leaving the offender or his friends to pay the fine later if the money is forthcoming. It is certainly the experience of most officers in charge of jails that fines are often paid after the prisoner has been admitted to prison. It is also a very common experience, especially in the larger towns, that numbers of prisoners are sent to jail for short periods merely in default of payment of a fine and with no substantive sentence of imprisonment. This is a procedure which should, we think, if possible be avoided. It seems to be clearly inadvisable that a man should be exposed to the disgrace and risk of contamination involved in committal to jail if his offence is one which, in the opinion of the court, would be adequately punished by a fine and if the grant of reasonable time will enable him to pay the fine. We suggest, therefore, that the procedure laid down in sections 386 to 388 of the Criminal Procedure Code should be remodelled. It should be provided that when a court imposes a fine without any substantive sentence of imprisonment it shall, unless for reasons to be recorded in writing it is satisfied that the accused will not pay the fine and will abscond if released, grant a reasonable time, not being less than seven days, within which the fine must be paid, and shall not meanwhile impose any alternative sentence of imprisonment. If on the expiry of this period of time the fine has not been paid, the court may grant the accused an extension of time or may issue process calling upon the accused to show cause why a distress warrant for the levy of the fine should not issued and why he should not be committed to prison, and shall then decide what further steps are called for.

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Grant of time and payment of fine by instalments.

439. In making this suggestion we are guided partly by the provisions of the Criminal Justice Administration Act, 1914, of Great Britain, and partly by the advice of experienced judicial officers who gave evidence before us. Sections 1 and 2 of the Criminal Justice Administration Act, 1914, deal with the matter. Those sections are framed so as to prevent as far as possible the unnecessary commitment to prison of persons sentenced merely to pay a fine and have had a remarkable effect in reducing such commitments, the number of persons admitted to prison in default of payment of fine having fallen from 101,756 in 1903-04 to 8,494 in 1917-18. The war has doubtless had some influence on these figures, but the fact that the proportion borne by admissions in default of payment of fine to total admissions has fallen from 54 per cent. in 1903-04 to 26 per cent. in 1917-18, shows that the decline is a real one. We think that a similar reform is greatly called for in India. It is true that the procedure we suggest will throw some extra work on the courts ; but that will be compensated for by the reduction in the number of petty offenders put in prison. It may be hoped, too, that if the courts have to deal with the question of alternative imprisonment at a separate hearing and as a separate issue, more care will be taken to adjust the fine to the means of the offender. The limit of fifteen days at present laid down in section 388 of the Code of Criminal Procedure should, we think, be abolished, and the court allowed to grant any reasonable period for payment of fine and the practice of payment by instalments should, as in Great Britain, be expressly recognised. As already noticed in the section on probation, it is also very desirable that there should be power to combine a sentence of fine or an order to make restitution with a period of probation.

Order "warned and discharged" in trivial cases.

440. It was suggested to us by Mr. Justice Heaton of the Bombay High Court that the law ought to recognise a finding of "warned and discharged" as one of the possible conclusions of a trial which ends in conviction. In his opinion the anxiety, publicity, inconvenience and expense of a trial and the stigma of conviction are often quite enough in themselves without and need for a sentence. But the law at present compels the court, unless the case is one suitable for disposal under section 562 of the Code of Criminal Procedure, to award a definite sentence either of fine or of imprisonment or (where the law allows) of whipping. If it were possible to deal with a case, in which resort to section 562 is not required or would be unnecessarily cumbrous, by an order "convicted and discharged with a warning," the necessity for fine or imprisonment would be saved. Such a disposal would often be appropriate in the petty cases which come before the magisterial courts in great cities and would be welcomed by the magistracy. It will be especially useful if, as we suggest below, imprisonment for less than twenty-eight days is prohibited. For these reasons we commend the suggestion to the attention of the Government of India.

Short sentences in India.

441. Even if these recommendations are adopted, there will still remain a very large number of cases in which petty sentences of imprisonment are unnecessarily imposed. The average number of persons sentenced to imprisonment for

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fifteen days and less is just under 33,000 per annum while the average number admitted to jails for periods not exceeding one month is just over 41,500 per annum. The proportion which these short sentences bear to the total number of persons sentenced to imprisonment varies very much in the different Provinces as shown in the following table :—

Persons admitted into jails and sub-jails (average for five years ending 1918).

Province.	Not exceeding one month.	Total admissions (excluding death sentences).	Percentage of column 2 to column 3.
1	2	3	4
Madras	7,997	22,681	35.20
Bengal	9,694	28,550	34.00
Bihar and Orissa	4,758	14,249	33.40
Central Provinces	1,407	4,505	31.20
Bombay	3,919	17,205	22.77
Assam	802	3,960	20.25
United Provinces	6,683	34,436	19.40
Burma	3,481	19,454	17.89
Punjab	2,950	18,836	15.66
North-West Frontier Province	492	3,707	13.27
India	41,532	169,083	24.56

These figures suggest that in some Provinces unnecessary recourse is had to short sentences of imprisonment. If in such comparatively recently developed Provinces as the United Provinces, Burma, and the Punjab, the proportion which such sentences bear to the total admissions to prison is well below one-fifth, it is probably unnecessary that in the older and more settled Provinces of Madras, Bengal, and Bihar and Orissa, the proportion should be over one-third. It is difficult not to connect this feature of the criminal statistics of the last-named Provinces with the existence of large numbers of small jails, 318 in Madras, 247 in Bombay, 57 in Bengal, and 42 in Bihar and Orissa. If a jail is placed at a magistrate's door the probability is that he will use it to a much greater extent than if a sentence of imprisonment involved removal of the offender to a distant station, with consequent demands for police escort. A large contribution to the number of persons admitted to jail under short sentences of imprisonment is also made by the large cities with their complicated municipal and other regulations and their crowded populations. In Bombay it was found that nearly 50 per cent. of all the short sentences in the Presidency were passed in Bombay City. We have already made some suggestions which will tend to bring about a reduction in the number of such commitments. That they are susceptible of very great reduction is proved by the fall that has occurred of late years in Bombay under the continued pressure brought to bear on the courts by the repeated utterances of the Bombay Government.

Western opinion regarding the short sentence.

442. The condemnation of short sentences of imprisonment is widespread and practically unanimous. Five and twenty years ago, writing on the discussions at the Fifth International Prison Congress held in Paris in 1895, the

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British delegate referred to "the universal dissatisfaction existing in all civilized countries with the results of short sentences of imprisonment." "Public opinion," he went on, "in England, as in all foreign countries, is impressed with the barren and ineffective results of incarceration for short periods which, because it is the simplest and easiest method of punishing any and every offence against the law, has been and is still unthinkingly and promiscuously applied." The agreement on this point is so general that it has not been found often necessary to debate it in later Congresses, but many other expressions of opinion to the same effect are on record. Thus Garofalo in his work on "Criminology" says (on page 424)—"It is evident that imprisonment for such short terms is wholly devoid of intimidatory effect. As for its reformatory effect it is not worth wasting words on." Sir Evelyn Ruggles-Brise in a paper written for the Congress at Buda-Pesth in 1905 said that experience had conclusively proved that a succession of short sentences, often for trivial offences, has a tendency rather to accentuate than to arrest the habit of crime. "They are costly to the State and prejudicial to the individual and an almost certain prelude to his complete and irretrievable downfall." The chaplain of Holloway Prison in his annual report for 1912-13 referred to the "scandal of the short sentence" and the chaplain of Pentonville Prison dealing with the same subject said: "It seems to me that the man who will invent some salutary method of treatment, not involving imprisonment, for minor breaches of the law will have earned well of his day and generation." On this the Prison Commissioners of England and Wales added:—"We have on many occasions during recent years called attention to the futility and harmfulness of repeated short sentences, especially in the case of young and trivial offenders. The almost unanimous voice that comes to us from the prisons, be it of officials or voluntary workers, calls for legislative remedy." Action was at last taken in the Criminal Justice Administration Act, 1914, to apply a remedy, but instead of prohibiting any sentence of imprisonment for less than a month, as we have reason to suppose was at first contemplated, the British legislature, with characteristic caution, made the limit five days. "No person," says section 13 (1) of the Act "shall be sentenced to imprisonment by a court of summary jurisdiction for a period of less than five days." Presumably this applies to alternative as well as to substantive sentences.

Opinion in India.

443. The witnesses who appeared before us were not less unanimous on the subject of the short sentence. Every Inspector-general of Prisons in India condemned this method of punishment, and almost every other authority, including several high judicial officers, agreed as to its mischievous effects. There is a widespread opinion that short sentences are seldom deterrent and never reformative while they are harmful in familiarising the offender with prison, in destroying his self-respect, and making him indifferent to further disgrace. Many witnesses said that the short sentence was often the introduction to a life of crime, and there can be little doubt that great harm is done in the large cities of India by sending young boys and men to jail for short periods. They make undesirable acquaintances and come out with the prison

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taint on them. During these short periods of imprisonment, no serious attempt can be or is made to enforce hard labour. In the larger jails the time is usually spent in semi-idleness and corrupting conversation in the quarantine yard, while in many of the smaller jails, and especially the subsidiary jails, there are no yards where labour can be carried out and the prisoners often spend the whole period locked up together without occupation of any kind. In short, the only justification generally put forward for the short sentence is the difficulty of finding an alternative.

Imprisonment under twenty-eight days to be prohibited.

444. In these circumstances we are strongly of opinion that definite steps should be taken by the legislature to prohibit such sentences. In Great Britain, as has been shown, a precedent for such action has been taken by the prohibition of sentences for less than five days. In this country, where the population is more rural in character and where drunkenness is less prevalent than in Great Britain, we think that the prohibition might go further and extend to any sentence of imprisonment, whether substantive or in default of payment of fine, for less than twenty-eight days. One of our number* does not concur in this recommendation : he is unwilling to bind the discretion of the courts and thinks that cases occasionally occur when imprisonment is desirable and when a less period than twenty-eight days will suffice, a view which a few witnesses share. We are not concerned to deny that there are some disadvantages in the proposed restriction on the power of the courts and that cases may arise when a shorter term of imprisonment than twenty-eight days might be imposed. But we are impressed by the necessity of taking a step which will leave no doubt in the minds of the magistracy as to the policy of the law. We believe that a far better average result will be obtained by prohibiting short sentences than by leaving the power to inflict them still in existence. We think too, that if an offence is of such a character that the court thinks it necessary to resort to the serious step of sending the offender to prison, it will be not improper that the period shall be at least twenty-eight days. Such a provision would, we believe, be in the interest both of jail administration and of the general criminal administration of the country, and if our recommendations in other Sections of this Chapter regarding release on probation, fine and warning are given effect to, we do not anticipate that the courts will meet with any difficulty in finding substitutes for short terms of imprisonment.

System of labour in lieu of imprisonment in force in Egypt.

444A. In Appendix XII to this Report will be found a note by the Inspector-general of Prisons in Egypt, which reached us after our report had been drafted, giving an account of an interesting experiment which has been made in that country in allowing persons sentenced to imprisonment for non-payment of fine and persons sentenced to simple imprisonment for periods not exceeding three months to secure exemption from actual imprisonment by electing instead to do six hours' work a day for a fixed number of days. The statistics appended to that note show that in the City of Alexandria during the four years 1914-1917 an average number of 2,510 persons annually elected to work in lieu of

*D. M. Dorai Rajah of Pudukottah.

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undergoing imprisonment. Of this total 813 subsequently paid their fines and so released themselves from the obligation to labour ; 1,115 completed their labour ; and 530 failed to work and were arrested and presumably imprisoned. Only 52 persons escaped re-arrest after failure to carry out their undertaking to labour. The proportion who thus succeeded in escaping the penalty of the law was thus very small, but the percentage (23.2) who failed to carry out the obligation to labour was considerable. The introduction of this system must impose a large amount of trouble on the police and other authorities. We had not an opportunity of examining its working on the spot, and without such examination it is difficult to form an opinion as to its fitness for adoption in India. If, however, any Local Government were inclined to give it a trial, we see no objection and some advantage, as it would certainly tend to reduce committals to jail.

Solitary confinement awarded by the courts.

445. The question whether solitary confinement, when imposed by the courts as part of a judicial sentence, does or does not possess any deterrent value or has any other useful effect, was a subject on which the most divergent and indeed contrary opinions were expressed by the witnesses who gave evidence before us. Officers with equal experience and of equal weight took exactly opposite views, some declaring that solitary confinement imposed by the courts was in no degree deterrent and of no practical use while others considered that it was undoubtedly most salutary and a great deterrent. One fact, mentioned by several witnesses, might seem at first sight to possess some evidential value, *viz.*, that prisoners who have to undergo solitary confinement have been known to remind the jailor that it was their turn to be placed in cells. Even this fact, however, is inconclusive and it seems probable that the effect of the punishment depends largely on the temperament of the prisoner, and that, while one man likes it, to others it is a severe trial. On the whole the evidence was so conflicting and the real effect of solitary confinement, when awarded by the courts, so uncertain that we do not feel justified in offering any recommendation on the subject.

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THE INDETERMINATE SENTENCE.

446. The average number of convicted persons who are admited into the prisons of British India annually amounts to nearly 170,000, while the daily average number of such prisoners confined in those jails is a little under 100,000. This large number of persons has not only to be housed and guarded, but also fed, clothed, provided with medical attendance and otherwise cared for at the expense of the community, and the annual cost per head of each prisoner, even after deducting such cash earnings as are obtained from his labour, amounts to a sum of about Rs. 84 per annum, a figure which is rapidly rising in consequence of the general rise of prices. It is evident that the detention of this large number of persons in prison involves a serious economic loss to the State, for, in addition to the expenditure which the State incurs upon those persons, there is the loss which is sustained through their withdrawal from the producing ranks of the community. The question which must suggest itself to any one who reflects on these figures is whether it is not possibly by the adoption of suitable measures to reduce this economic waste. It may, of course, be hoped that, by the removal of the causes of crime, by the spread of education and by the various means for the prevention of recidivism which we have noticed in the preceding Chapter, some reduction of jail population will be gradually achieved but there is still a further possibility, *viz.*, that by a modification of the prevalent system of sentences of imprisonment, the same aim might be advanced. This possibility we shall now proceed to examine.

Economic loss involved in imprisonment.

447. It has long been pointed out by writers on penal science that the mere detention of a criminal in prison in no way supplies a remedy for the social evil of which crime is a mainfestation. In this Report we have endeavoured throughout to keep in view the principle that a main object of imprisonment should be the reformation of the criminal so that he may turn from his evil courses and refrain from crime in future. Even, however, if the methods employed in our prisons are as far as possible directed to this object, it still remains unlikely that the average prisoner will come out of prison better fitted to take up his place in the community than he was when he went in. Imprisonment is seldom beneficial in its effect on the individual and it is probable that the longer the sentence the less likely it is to be of benefit. Removal from the free life of the world and subjection to the monotonous and depressing influences of jail discipline tend more and more to destroy the prisoner's power of initiative, his vigour of mind and his capacity for free action. It would seem, therefore, legitimate and

Mere length of imprisonment harmful.

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desirable to adopt measures with the object of shortening the longer sentences, provided that this can be done without injury to the community. It must, we think, be generally admitted that mere length of sentence is not only purposeless but harmful, both as imposing enhanced cost on the community and as tending to render the prisoner himself less and less able to occupy a useful place in the world, and that no person should be detained in prison longer than is necessary to deter him, and others, from the commission of crime. It is no doubt also necessary to take into account the effect which the punishment and its mitigation may have on potential criminals in the community ; but it seems probable that for the most part, this effect is produced by the original sentence and by the loss and disgrace caused by conviction and that, except in the case of the potential offender who is already a hardened habitual, mere length of detention is not a very weighty influence. It is also generally recognised that certainty of detection is a more important factor in the prevention of crime than severity of punishment.

Defective information available to sentencing courts.

448. Another consideration which has an important bearing on this question is the undoubted fact that the criminal courts, on whom is placed the duty not only of deciding on a man's guilt or innocence but also of apportioning the punishment to be imposed for the crime which he has committed, are to a great extent without the means necessary to enable them to adjust the punishment to the offender. The older view that the sole subject to be considered in awarding punishment was the nature of the crime, is being superseded by the more rational view that the punishment should also fit the criminal. It hardly needs demonstration that the judge sitting in his court and imposing the sentence is totally unable to forecast in advance what will be the effect of his sentence on the prisoner's mind and when that prisoner could be released without injury to the community. This effect will necessarily vary with the character of the individual prisoner and may only gradually become apparent as time goes on. In this country, if not in all countries, the information which is available to the judge at the time of trial as to the antecedents of a prisoner, his character and environment and the causes which conduced to the commission of the crime, is often very inadequate. One of the most thoughtful and valuable of the witnesses who appeared before us, Mr. Justice Heaton of the Bombay High Court, made the suggestion that the apportionment of punishment should be entrusted to a different body from that which tried the question of guilt or innocence. He recognised, however, the force of the objection to this which is, that apart from the duplication of work which it involved, it would still be too early to judge of the effect of conviction, and of the yet unpronounced sentence, on the accused. In some of the States of America, an attempt has been made to get over this difficulty by appointing in every court an officer whose duty it is, after the prisoner's guilt has been established, to make inquiries and to furnish the judge with information including a report on his mental condition, which will enable him to award punishment wisely and equitably. This system is said to work satisfactorily in the United States although even there it was admitted that attempts had been made, though unsuccessfully, to influence the courts' officers in favour of or against

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the prisoner. In this country, we do not think that such a system would have any chance of success. The many religious and social cleavages which exist in India would inevitably lead to unevenness in the officers' reports, even if direct corruption could be guarded against, and we do not think that it would be wise to attempt to imitate the American system in this respect. At the same time, it does seem to us possible that more might be done, especially through the instrumentality of the public prosecutor, generally a vakil of long standing and position, to lay before the court, after the question of the prisoner's guilt has been determined, such reliable information as would enable the court to adjust its sentence to the needs of the case.

Adoption of the indeterminate sentence in America.

449. After all possible improvement has been brought about in this direction, it will still remain true, we think, that the court is compelled to pass sentence in at least partial ignorance of the criminal's true character and history. It seems to us impossible that the difficulties in the way of adjustment of sentence to crime at the moment when the sentence is pronounced can be overcome and the theoretically correct solution of these difficulties would be that the court should refrain altogether from passing a definite sentence and should merely decide whether a man is guilty or not and then hand him over to an expert body of penologists, to be detained and dealt with in accordance with his subsequent conduct, the fuller information which they can obtain regarding his previous history and a careful study of his mental and physical characteristics. This is the idea of the indeterminate sentence which has been gradually winning its way to acceptance in the United States of America. In no State, so far as we are aware, has the principle of the indeterminate sentence been carried to its logical conclusion but in a very large number of States the old conception of the definite fixed sentence has been abandoned and a more elastic or variable form of sentence has been adopted. Many varieties of the indeterminate sentence are to be found in the United States, but the most generally adopted plan is that of a sentence which involves both a fixed minimum and a fixed maximum but which leaves it to the revising body, generally known in America as the parole board, to decide after what period within those limits the prisoner can be released. It is thus open to the prisoner by good conduct and industry in the prison to secure release as early as possible after he has served the minimum period of sentence, while it is within the power of the parole board to adjust any detention beyond that period to all the circumstances of the case. When release is decided upon, it is almost invariably made subject to certain conditions. The prisoner is said then to be on parole, and during the parole period he is usually under the supervision of an officer known as a parole officer, whose duty it is both to see that the conditions of release are observed and to give the prisoner any protection, assistance or advice he may need. It would take too long here to detail the different forms under which the principle of the indeterminate sentence and of release on parole has been given effect to in the United States. A fuller account of the working of the indeterminate sentence and of the system of release on parole in the United States and other countries will be found in Appendix X to this Report. It may be added that in no State in which the principle of the indeterminate sentence has once been adopted has there ever

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been any reaction in favour of the fixed sentence, and, as will be seen from Appendix X, the principle of the indeterminate sentence secured acceptance at the International Penitentiary Conference of 1910.

Arguments in favour of the indeterminate sentence.

450. There are various considerations other than those noticed above which are cited in support of the principle of the indeterminate sentence and the revising board. One of these is the uncertainty and inequality which is liable to result when a fixed sentence is passed on a prisoner by a single judge, whose temperament or state of health at the moment may affect the result. In India these uncertainties and inequalities are no doubt a good deal guarded against by the moderating functions of the high court, but they cannot altogether be eliminated and a revising board, sifting the matter when some years of the sentence have elapsed and with all the additional information made available by the prisoner's conduct and bearing in jail, is, it is urged, in a much better position than either the original court or the high court to assess the penalty correctly. Again, it is pointed out how powerful an influence the indeterminate sentence and the possibility of release on parole must have on the reformation of the prisoner. Here in India we possess a valuable reformatory influence in the remission system which enables a prisoner by good conduct and industry to reduce his sentence by one-sixth or one-fourth. But, it is urged, this influence would be much enhanced if it were within the prisoner's power to shorten his sentence to a still greater extent. Moreover, it is suggested that the application of the indeterminate principle renders it possible to afford much more adequate protection to society against the repetition of crime than is likely to be secured under the system of fixed sentences. Public opinion is almost invariably adverse to the imposition of lengthy sentences of imprisonment for offences against property where the value lost or stolen is small. To sentence a man to penal servitude for life for stealing an anna's worth of rice or for taking an article of trifling value from some one's pocket is generally made the subject of adverse comment, though the prisoner may have been convicted a dozen times before and the small value of the theft may have been due merely to his inability to take more. Some courts too are unwilling to follow the evidence to its logical conclusion and to condemn a man to a long term of detention as an incorrigible thief when the individual offence seems to be trifling. But the same unwillingness would not be felt if the sentence were indeterminate and if the prisoner could be released at any time on proof of amendment. Indefinite detention is also specially disliked by the criminal classes themselves, and the institution of Camp Hill was at first much resented by them, though the humane methods followed have since done much to reduce this feeling.

Analogies in England and India.

451. The idea of the indeterminate sentence has not yet been adopted in any definite form in Great Britain although there have been indications that public opinion there is to some extent moving in that direction. In the system of preventive detention of habitual offenders and of conditional release which has been introduced in Great Britain by the Prevention of Crime Act, 1908, which

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is carried out at Camp Hill in the Isle of Wight and which is described in Appendix X, some of the elements of the indeterminate sentence have received legislative recognition. Again, under the Borstal system of Great Britain, the fact that the authorities of Borstal institutions are authorized to release on license the youths committed to their charge whenever they think that a suitable occasion for such release has arrived, is also a recognition by the legislature of the indeterminate principle. Similar provisions exist in regard to reformatory and industrial schools. Some precedents favourable to the idea of the indeterminate sentence are also to be found in India. Section 401 of the Code of Criminal Procedure expressly recognises the principle of confidential release and many instances of such release have occurred. The Reformatory Schools Act, 1897, empowers the authorities of the school to license out youthful offenders who have attained the age of fourteen at any stage in their period of detention. In the preceding Chapter we have advocated the application of a similar procedure to adolescent offenders in India, and there appears to be no essential difference in this respect between the case of the adolescent offender and that of the adult criminal. Moreover, the Government of India, in Home Department Resolution No. 159-169 Jails, dated the 6th of September 1905, has adopted a procedure which directly involves the revision of sentences. Under that Resolution, when the term of imprisonment undergone together with any remission earned amounts to fourteen years, the question of remitting the remainder of the prisoner's sentence is brought under consideration. It is there laid down that the local Government when considering the case should take into account the circumstances of each case, the character of the convict's crimes, his conduct in prison and the probability of his reverting to criminal habits or of instigating others to commit crime. It is also provided that it is open to the local Government to prescribe as a condition of release that the convict shall during any term of punishment remitted be subject to police supervision or to any conditions. This system has now been enforced for fifteen years and has, we believe, worked successfully. It has not called forth any protests from the courts against such interference with their sentences as the system involves, nor has it led to any outcry on the part of the public or the police that criminals are being prematurely let loose. If it does not in terms recognize the principle of the indeterminate sentence, it has much in common with it.

Revision of long sentences recommended.

452. We fully recognise the theoretical advantages of the indeterminate sentence and we think it probable that it will continue to be more and more widely accepted ; but we do not think that it is suitable for adoption under the conditions of some Provinces in India at present. The principles underlying it are too little understood by the general pubilc for it to be safe to recommend its introduction, and it is probable that there would have to be such large exceptions made to the application of the system that the result would be both imperfect and unsatisfactory. We are, however, strongly impressed by the desirability of bringing every long sentence of imprisonment under review at some period in the course of the sentence by an impartial authority, which will have before it information, which no sentencing court can possess, as to the results of the period of imprisonment undergone by the prisoner and as to the question of his fitness

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for release. It seems to us that a system of revision of sentence on these lines could be introduced without radical change in the Indian system of criminal administration and that thereby many of the advantages of the indeterminate sentence could to a great extent be achieved.

Details of scheme.

453. The scheme which we advocate would be somewhat on the following lines. The sentence of every long-term prisoner would be brought under revision, as soon as he has served half the period awarded by the court in the case of the non-habitual and two-thirds of that period in the case of the habitual convict, provided in both cases that remission earned, but not remission granted in celebration of public events, should be included in calculating the period undergone, and provided also that no sentence should come up for revision until a period of two and a half years, including remission, has been served. This restriction is necessary in order to prevent an overwhelming amount of work coming before the revising board and also because the revision of shorter sentences is less required than that of long sentences. It may be mentioned here that, in main outline, the foregoing scheme is that followed in Norway, Holland and possibly other European countries.

The Revising Board.

454. There should be constituted in each Province a revising board which might be constituted either on a provincial basis or on a local basis. We are inclined to favour a plan under which the Inspector-general of Prisons would be the chairman of the board, and the district and sessions judge of the area in which the jail is situated, together with a non-official appointed by the Government, would be the other two members of the board. When the Inspector-general of Prisons inspects each prison, it should be part of his duties to summon a meeting of the board and to consider the case of every prisoner put before it for the purpose by the superintendent of the prison. It would be necessary, we think, to appoint a secretary to the revising board whose duty it would be to prepare in advance the information regarding each prisoner whose case is to come before the board, to obtain the opinion of the superintendent of the prison as to the prisoner's conduct and fitness for release, the best available medical opinion regarding his physical and mental condition, the opinion of the magistrate of the district in which the prisoner was convicted, or in which the prisoner's home is situated, regarding the possibility of releasing the prisoner in advance of the expiry of his sentence and also, if necessary, that of the judge who presided at the original trial, together with all other material information bearing on the case. Then, when the board assembled, it would take into consideration the data thus collected. It would be open to the board, after a full consideration of the whole of the material collected, either to postpone the further consideration of the matter indefinitely or until its next meeting, which would probably not be until after the expiry of another twelve months, or to recommend to the Government the release of the prisoner with or without conditions or security and with or without any intermediate period of probation. It would be clearly understood that the revising board would have complete discretion to put back the case altogether or for any definite period or indefinitely and would be under no necessity to make any

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recommendation on behalf of the prisoner. It would also be entirely at the discretion of the local Government to accept the recommendation of the revising board and to make an order under section 401 of the Code of Criminal Procedure or not. All that the scheme we have indicated would insure would be that the sentence of every long-term prisoner would be brought under revision by an expert body after a certain proportion of the sentence, including any remission gained under the rules, has been undergone. For the purpose of this proposal a life sentence should be taken at 20 or 25 years, as laid down in the remission rules. This scheme would require no legislation and could be carried out immediately by executive order. We are fortified in bringing forward these proposals by the fact that all the judicial witnesses whom we examined on the point were of opinion that no objection would be raised by the courts to their sentences being revised in the manner suggested.

Intermediate imprisonment—Thana and Lahore experiments.

455. We consider that it would materially assist in the practical carrying out of this scheme if arrangements were made for the provision of an intermediate stage of detention during which a prisoner might, under the orders of the revising board, be required to undergo a definite period of probation. During this period of probation, the prisoner would be removed from the ordinary precincts of the jail and would be granted such larger measure of freedom as would enable his fitness for ultimate release to be tested. A system of this character existed for several years at the Thana Jail in Bombay. At that jail, a scheme was introduced in 1905 under which a limited number of first conviction prisoners of proved good character, who had undergone two-thirds of their sentences, were completely separated from all other prisoners in the jail. They were employed in the garden and were allowed various privileges, such as freedom from the obligation to wear jail clothing, permission to purchase a limited quantity of tobacco and sweets, to receive and write letters, to have better food, to get a larger amount of remission and to guard themselves. This interesting experiment, while it lasted, is reported to have been completely successful. The prisoners selected for the purpose gave no trouble and none of them attempted to escape although no warders were employed to watch them while at work. By their labour they greatly improved the garden and the profits from their labour were larger than the average. The scheme finally came to an end not because it failed to achieve the objects with which it was started but because a sufficient number of prisoners could not be found for its continuance without reducing that available for employment as convict officers. A somewhat similar method is now in operation at the Borstal Central Prison at Lahore. There, a certain number of selected youths are provided with separate quarters outside the jail. Employment is secured for them in the railway workshops in the town of Lahore and they attend the workshops without guard of any kind. They are credited with the full wages they earn in the workshops but are required to pay a fixed sum towards their maintenance, the rest of the pay being left at their disposal. They are required to return to their quarters in the evening but no roll-call is held during the night and they are treated with as much confidence as possible and are expected to respond by loyally carrying out the conditions under which they are thus partially released. One of these youths

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gave evidence before us and we were favourably impressed by his account of the working of the system and by the evidently successful manner in which it was operating in this instance.

Suggestions regarding intermediate period.

456. Following these precedents we advocate the introduction of a probationary period during which prisoners might be "tried out," to use a convenient Americanism, in order that their fitness for eventual release may be tested and the prisoners themselves given a half-way house between confinement in the jail and full liberty. In the United States this idea is represented by the system of treating selected prisoners as "trusties" and allowing them to go outside the prison unattached for farm operations or other work and other purposes. This enables the authorities to judge whether a prisoner is a suitable person for parole, and so permits of a definite recommendation being placed before the Parole referred to in paragraph 449. Another method would be to provide or set aside at each central jail suitable buildings, in which prisoners could be placed while undergoing a probationary period. Possibly these buildings might be outside the main wall, as is the case at the Borstal Central Jail, Lahore, labour being found in neighbouring works or farms and the prisoners being merely required to return to sleep at the jail. Again, it might be found possible in some Provinces to make over a district jail in a suitable locality for the accommodation of prisoners thus on probation. In Burma a scheme is under consideration for the creation in the Irrawady Delta of a Farm Colony, to which prisoners after a period in jail might be sent and there allowed to live with their families, the control of the colony being entrusted to an officer of the Salvation Army. Such a scheme appears to us have great potentialities, but there may be difficulty in some Provinces in finding land for the purpose. It would be left to local Governments and local circumstances to decide which of these plans should be adopted, but we think that an essential feature of the period of probation should be that the probationer should be gradually released from restrictions, being thus subjected to the ordinary temptations of free life, while supported by the assistance and advice of the supervising authorities. We would not make this probationary period an absolute essential of the adoption of the principle of revision of sentence, but we certainly think that it would be wise to give it a trial in each Province.

Conditions of release.

457. When the release of a prisoner has been recommended by the revising board and sanctioned by the local Government under section 401 of the Code of Criminal Procedure, either after or without an intermediate period of probationary detention, we think that in all ordinary cases the release should be subject to certain definite conditions which should be laid down by the local Government and should be adapted as far as possible to the requirements of the individual case. It is unnecessary for us to enter into any great detail as to what these conditions should contain. It is certainly necessary that it should bind the released prisoner to keep the authorities advised of his place of residence and of his method of employment. It is also desirable that it should require a prisoner

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to abstain from consorting with bad characters, to lead an industrious life, and to refrain from all breaches of the law. It should bind him to habits of temperance and general good behaviour and to submit himself to the guidance of the parole officers whose functions are described in the next paragraph. Any breach of the conditions subject to which he is released would render the prisoner liable to undergo the full period of sentence which remained unexpired on the date when he was released from prison. It would be necessary that the prisoner should himself assent to and accept the conditions before his release.

Parole officers.

458. Some agency would be required to ascertain and insure that the prisoner carries out the conditions under which he is released. It would in our opinion be altogether undesirable to impose this duty upon the police. All the witnesses whom we consulted on the subject were unanimous on this point, and they generally agreed that the period of supervision which we contemplate in these proposals should replace that of police surveillance which can at present be imposed under section 565 of the Code of Criminal Procedure. Nor does it seem to us ordinarily desirable that the supervision of the released prisoner should be entrusted to the village headman. In many parts of India villages are so much broken up into factions that it might be impossible for a released prisoner to receive fair play if he were placed under the supervision of the village headman. Moreover, the capacity, education and efficiency of village headmen vary indefinitely. We are reduced, therefore, to the conclusion that some fresh grade of official would have to be created for the supervision of released prisoners. These officials, to be known as parole officers, should, we think, be attached to the appropriate jail and be under the control of the superintendent thereof. It would be their business to find employment for released prisoners, to protect the prisoner from any interference by the police or other persons, to extend friendly advice and support to the prisoner in the critical period which must elapse immediately after his release and to see that the conditions of release are loyally and carefully observed. In order to secure suitable persons for this work, it will be necessary to give somewhat liberal remuneration, with such prospects of promotion as will ensure faithful service, and to select candidates with special care and discretion. We should be inclined not to insist on any definite qualifications, such as the possession of a university degree or the like, but a good standard of education would be essential and we think that every candidate should undergo a period of training in the duties of his office before he is actually appointed. Further details regarding the method of selecting such candidates must necessarily be left to local Governments, our proposals on this subject being throughout entirely tentative.

Police not to exercise supervision.

459. Under section 565 of the Code of Criminal Procedure, certain courts have power, when passing sentence on a prisoner convicted for the second time of certain offences under Chapters XII and XVII of the Indian Penal Code, to order that, for a period not exceeding five years from the date of expiry of sentence, his residence and any change of residence shall be notified in accordance with rules to be made by the local Government. This procedure would

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evidently be inappropriate in the case of persons released by the revising board under the proposals made in this Chapter. As observed in the last paragraph, we do not think that the supervision of such persons should be entrusted to the police. If, as we recommend, this duty is imposed on a special class of officer, to be termed parole officers, it would be very undesirable that the police, as well as the parole officer, should exercise supervision over these persons. We think, therefore, that the revising board, when releasing a prisoner on parole, should have power to direct that any order which may have been made regarding him under section 565 of the Code of Criminal Procedure should be suspended, and that, if the person so released completes the period of parole successfully, the order should be finally set aside and become void.

Lump remissions on public occasions to cease.

460. If the scheme of revision of sentence proposed in this Chapter is approved and introduced, we would strongly urge the abandonment of the system of granting lump remissions of sentence, generally at the rate of one month for each year of sentence, which has of late years been used as a means of marking such events as the Accession or Jubilee of the Sovereign or other occasions of public rejoicing. The release of a certain number of short-term prisoners on these celebrations is a comparatively harmless, if not a very appropriate, way of recognising public cause of thanksgiving, but the shortening of the sentences of prisoners who are not released seems to us to have very little utility and to be open to many objections. The prisoner whose conviction occurs just after the fixed date finds himself excluded from the benefit of this act of clemency and sees no sense or justice in the exclusion. The prisoner who is sentenced in time to participate receives a benefit which he has not earned and which he rightly regards as merely due to a stroke of luck. In other ways the system works unevenly and inequitably. If the execution of judicial sentences is to be placed at all on a scientific basis, such fortuitous accidents should as far as possible be excluded.

CHAPTER XVII.

SPECIAL CLASSES OF PRISONERS.

Section I.—Civil Prisoners.

Imprisonment in execution of decrees of civil courts.

461. The great majority of the civil prisoners admitted into the prisons of this country are persons committed by the civil courts in the execution of decrees under the Code of Civil Procedure. Several of our witnesses have expressed in their evidence views either in favour of, or against, such imprisonment, but this is a subject which seemed to us to be outside the scope of our inquiry and we accordingly have not attempted to obtain full information regarding it and are not in a position to express any opinion on the matter.

Objections to presence of civil prisoners in criminal jails.

462. There seems, however, to be hardly any room for difference of opinion as to the undesirability, under existing conditions, of the practice which exists in most Provinces of India, of confining civil prisoners in criminal jails. Under section 31 of the Prisons Act, 1894, a civil prisoner is permitted to obtain, subject to certain conditions, food, clothing, bedding and other necessaries from outside. Under section 34 he is under no obligation to labour but may pass the time in complete idleness or may, at his option and with the superintendent's permission, follow any trade or profession he likes and, if he finds his own implements, shall be allowed to receive the whole of his earnings. The presence in a criminal jail of an element such as this is evidently objectionable. It is difficult to prevent the special articles of diet or otherwise which civil prisoners receive from outside from being passed into other parts of the jail. The introduction of these articles is a constant source of danger of communicating disease and the presence of a number of idle inmates has a bad effect on the jail as a whole. There are also objections to subjecting a civil prisoner to the stigma of imprisonment in a criminal jail.

Civil prisoners should be in civil prisons subject to the senior civil judge.

463. We think it is, therefore, exceedingly desirable that, wherever possible, civil prisoners should be removed from the criminal jail and should be confined in a separate institution which should be under the control of the senior civil judge and managed by him through his office establishment. In the Bombay Presidency this is already the arrangement except in Bombay City and there seems, therefore, no reason to suppose that it would be found impossible to carry it out elsewhere. The chief difficulty would probably be found to consist in the provision of buildings, but in all parts of India, except the Madras Presidency,

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the number of civil prisoners to be dealt with is so small that it may be possible to overcome this objection. This will be apparent from the statistics annexed to this Chapter.

If this is impossible, civil prisoners' yard should be completely cut off from criminal jail.

464. Unless and until it is thus possible to make over civil prisoners to the care and control of the civil judge, and so long as they have to be confined in the criminal jail, it is very necessary that they should be as far as possible cut off from access to, or communication with, criminal prisoners. Wherever possible, the civil prisoners should be kept in an extramural building. Where this cannot be arranged, their yard should be so placed that the entrance to it should be separate from the entrance to the jail and that there should be no inner communication with the jail.

Civil prisoners to be allowed books and news papers.

465. The civil prisoner should be encouraged to work because idleness is bad for the man himself, but we do not think it is necessary, as some of our witnesses suggested, to revise section 34 of the Prisons Act and force the civil prisoner to labour for the benefit of his creditor. Nor, on the other hand, do we support the views of another class of critics who suggested that the civil prisoner should be given superior accommodation, be granted such amenities as lawn tennis or badminton, and even be exempted form the liability to compulsory vaccination. We, however, recommend that they may be allowed books from the jail library, and that they should be permitted to obtain, at their own expense, any books and newspapers from outside, subject to such safeguards against the introduction of improper literature as may be thought to be necessary. They should also be allowed any harmless indoor games. So far as possible, we think that separate sleeping accommodation should be available for civil prisoners.

Employment of convict officers in civil prisoners' yard to be prohibited.

466. Section 27 (4) of the Prisons Act, 1894, provides that civil prisoners shall be kept apart from criminal prisoners. Under this provision of the law the practice, which has occurred in some Provinces, *e.g.*, Burma, of employing convict officers to guard civil prisoners is irregular and should be put a stop to. Apart from the legal objection, it is, we think, undesirable that civil prisoners should be brought into contact with convicts and we recommend that the practice should be prohibited.

Section II.—State Prisoners.

Arrangements relating to State prisoners in jail.

467. The term "State prisoner" is generally used to denote a prisoner confined under Regulation III of 1818 or the corresponding Regulations in force in the

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Madras and Bombay Presidencies. These prisoners, when in jail, are detained in special enclosures or buildings separate from all other prisoners ; they are granted such indulgences as books, writing materials, tobacco, betel-nut and the like and are subjected to no more restraint than is necessary for their safe custody. The arrangements made appeared to us to be as satisfactory as is possible in the case of persons who have to be confined within a jail, and we received no complaints from any State prisoner regarding his treatment by the jail authorities. In many cases facilities have been provided to enable prisoners of this class to play badminton or lawn tennis.

Section III.—Military Prisoners.

Present system of committing soldiers of the Indian Army to criminal jails for military offences.

468. Under section 107 of the Indian Army Act, 1911, whenever any sentence of transportation or rigorous imprisonment is passed under that Act, the prisoner's commanding officer shall forward the warrant and the prisoner to the officer in charge of the civil prison in which such person is to be confined (these words here referring to the criminal jail of the civil administration) with a view to the carrying out of the sentence; but if the sentence does not exceed three months, it is open to the military authorities to direct that the sentence shall be carried out in military custody. The result of these provisions is that military prisoners of the Indian Army sentenced to imprisonment by courts-martial for purely military crimes are received in criminal jails. The Army Act itself recognises the existence of a distinction between those offences which under section 31 of the Act constitute "disgraceful conduct", as for instance theft, fraud or offences involving cruelty or indecency, and those which do not, such as absence without leave, insubordination, drunkenness, etc., but under the provisions above noticed every military prisoner sentenced to imprisonment for any period in excess of three months, whatever his offence, must be sent to a criminal jail, where he is liable to be kept in the same wards with persons convicted of crimes such as burglary or theft. It also results in the prisoner's returning to his village under the stigma of having been in a criminal jail.

Prisoners sentenced for purely military offences should not be sent to criminal jails.

469. It seems to us that this arrangement is very undesirable. In the case of British officers and soldiers sentenced to imprisonment by courts—martial for purely military offences, that is, for acts not constituting an offence under the ordinary criminal law, they are not sent to criminal jails but are kept in military prisons. We think that, if possible, similar arrangements should be made in the case of officers and soldiers of the Indian Army. This would, however, involve an amendment of the Indian Army Act, 1911, as well as the provision of suitable military prisons.

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If this is impossible, they should go only to a selected jail or jails.

470. In the Bombay Presidency orders have been issued by the local Government to the effect that natives of India who have been sentenced to imprisonment by courts—martial for purely military offences and for whom accommodation apart from other prisoners is required shall not be confined in any prison other than a central prison or the special prison at Aden. These orders are intended to facilitate the segregation of the military prisoners referred to from other prisoners, and so far as they go, they appear suitable and we think should be reproduced in other Provinces. We would, however, go farther and propose to direct that such military prisoners shall be confined only in one or more selected central prisons where separate accommodation for them will be available. But, as already remarked, it would, we think, be altogether preferable that they should not be sent to a criminal jail at all.

Section IV.—Under-trial Prisoners.

Existing arrangements for under-trial prisoners.

471. In most Provinces of India the existing arrangements for unconvicted criminal or under-trial prisoners are among the least satisfactory features of the prison administration of this country. Witness after witness commented adversely on the absence of adequate means of classification and segregation, both in jails and subsidiary jails and lock-ups. In some Provinces the treatment of an under-trial, as soon as he enters a jail, resembles too nearly that of a convicted prisoner. The practice of taking unconvicted prisoners through the streets from the jail to the court and back, often handcuffed, sometimes fettered or roped, is too common. The first defect is largely due to the lack of proper and sufficient buildings, the second is mainly a survival of early practice, while the third is a matter for which the police are responsible.

Under-trial block to be entirely separated.

472. If it were practicable, it would doubtless be desirable, wherever large numbers of under-trial prisoners are received, to accommodate them in a separate jail. As, however, this is not generally possible, the existing practice under which the under-trial block forms part of the ordinary criminal jail must continue, but it is desirable that it should be completely separated from the portion of the prison occupied by convicted prisoners. Where sufficient ground is available there are advantages in having the under-trial block as a separate enclosure outside the main gate, but it must be added that this involves some additional amount of staff for guarding and some loss of security.

Convict officers should not be used to guard under-trial prisoners.

473. Section 27 of the Prisons Act, 1894, lays down that unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners. It seems to us to be a clear infringement of the terms of this section to direct, as is done in the

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Jail Manuals of some Provinces, that the under-trial block should be placed in charge of convict officers. Thus rule 869(4) of the United Provinces Prison Manual says: "A convict officer shall, at all times, both day and night, be present in the under-trial ward. (*a*) During the day a selected convict overseer shall have charge of the under-trial section. In selecting a prisoner for this duty the superintendent must satisfy himself from the man's antecedents that he is not likely to corrupt the prisoners in his charge. (*b*) At night, for the purposes of guarding unconvicted criminal prisoners inside their wards, a specially selected convict overseer and four convict night-watchmen shall be appointed. The selection shall be strictly limited to prisoners in jail for minor offences." Such a rule not only ignores the provisions of the law but overlooks the obvious objections to putting untried and possibly innocent prisoners in charge of convicted criminals. We think that such rules should be cancelled and the practice which they represent should be put an end to and that no convicted prisoners (except sweepers, etc.) should ordinarily be allowed to enter the under-trial yard.

Absence of proper classification and segregation at present.

474. A much more difficult question arises when we turn to the consideration of the degree and method of separation of under-trial prisoners from one another. The present arrangements in most jails are that the prisoners are locked up together at night in one or two large association wards, and by day are allowed to mingle freely in the common yard provided for under-trials. It is hardly possible to defend such an arrangement which allows the first offender to be in prolonged communication with the hardened habitual, and which provides for no separation between a decent member of society and the lowest grade of criminal. In our inspections we noticed instances of the results of such absence of segregation, *e.g.*, a young man charged with a first offence, placed between two old thieves. It is not surprising that, as one of our witnesses told us, "contamination begins in the under-trial yard." On the other hand, the difficulties of providing adequate and efficient separation are very great. To accomplish this will involve a large amount of structural alteration in many prisons, while in some, owing to the restricted area available, it will be actually impossible.

Measures for separation by night and by day in future.

475. We recommend that in all future construction, the accommodation to be provided for under-trial prisoners should be entirely cellular in character. This will provide complete separation for every prisoner by night. We are divided in opinion as to whether similar separation should be enforced by day. On the one hand, it is urged that to subject an under-trial prisoner to separate confinement by day and night for periods which may extend to six months or even more, with no opportunities for conversation with his fellow-prisoners, is to inflict an intolerable hardship on a possibly innocent man, that he will leave the prison embittered and disheartened by such treatment, and that the risks of contamination can be greatly reduced by introducing some classification of under-trial prisoners and sub-dividing the yard accordingly. On the other hand, it is suggested that if adequate arrangements for daily exercise outside the cell are made, the hardship of separate confinement would be sensibly lessened; that no classification of

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under-trial prisoners can really guard against the chances of the corruption of the better by the worse prisoners ; and that separation by day as well as by night, without opportunities for conversation with fellow-prisoners is the rule in Great Britain. The opinion of the majority * is opposed to confining under-trial prisoners in their cells by day. We are, however, agreed that any prisoner who wishes to remain separate during the day should be allowed to do so and that, with this object the cells should not be locked during the day, so that any prisoner can retire to his cell whenever he likes. We also agree in the hope that all local Governments will continue to press on the attention of the courts the objections to the prolonged detention of untried prisoners in prison and will do all that is in their power to promote the speedy disposal of criminal charges against persons in custody. In the course of our tours we came across several instances of long detention. Thus, in the Bhagalpur Central Jail, we found on the 26th February 1920, a man who had been in jail since the 27th September 1919. Similar instances will be found recorded in many of the recent Annual Jail Administration Reports of the Bombay Presidency. Rule 881 of the United Provinces Prison Manual provides that it is the duty of the Inspector-general of Prisons to exercise a legitimate watchfulness over the numbers and detention of prisoners confined in the under-trial yards under his inspection and to call the attention of the Government to the subject, if circumstances necessitate this action. We think that somewhat similar provisions might be included in the Prison Manuals of all Provinces, where such a rule does not already exist, and that all jail visitors should be instructed that attention to this matter is one of their most important duties.

Sub-divisions of the under-trial yard.

476. It is very desirable that some separation of under-trial prisoners by day should be carried out in all jails. In the first place, it is essential that adolescent prisoners should be separated from adults. Even this is not at present always enforced. In the second place, it is desirable that prisoners who are known to have been in jail before should be separated from those who, so far as can be ascertained, are in prison for the first time. As one of our witnesses said : "The old offenders invariably advise and corrupt the others while under remand." Accommodation must also be available to render possible the complete separation of those prisoners whom the magistracy or police wish to be kept apart. It is, therefore, necessary that in all jails there should, if possible, be three sub-divisions of the under-trial yard, so arranged that the prisoners in one sub-division cannot communicate with those in another. In any under-trial block that may hereafter be constructed, the cells should be so built as to allow this division into three sub-yards to be carried out. Of course, if it were decided that every under-trial prisoner should be kept in his cell by day as well as by night, this separation into three sub-divisions would be less necessary.

Period spent as under-trial to be allowed for as part of any sentence of imprisonment.

477. We learn that in the Philippines any period passed in prison by a prisoner, other than a recidivist, prior to his conviction is taken as forming a portion of any sentence of imprisonment to which the prisoner may be

*Sir J. DuBoulay, Colonel Jackson, Sir W. Buchanan and D. M. Dorai Rajah of Pudukottah.

sentenced, every day of such period being counted as half a day for the purpose of calculating the period of imprisonment to be undergone. The courts in India, in awarding sentence, often take into account the period of detention which a prisoner has undergone before conviction, if it has been at all prolonged, but there is no rule of law or practice requiring a court to do so. We believe that under the French criminal code, imprisonment undergone before or during trial is deducted in full from the period to which the prisoner may be sentenced on conviction. This appears to us to constitute too great a concession, because during his detention as an under-trial prisoner, the prisoner is not required to labour and will, if our recommendations are accepted, enjoy various amenities not allowed to convicted persons. But we are inclined to think that the compromise which is adopted in the Philippines, under which half of the period of detention before and during trial is counted as part of the sentence, is a reasonable one and worthy of consideration by the Government of India.

Under-trial prisoners to be allowed books and newspapers.

478. We pass on now to the question of the general treatment of under-trial prisoners. We agree on the whole with the view of those witnesses who hold that they have hitherto been treated too much on the same lines as convicted prisoners and we think substantial modifications may be made in several respects. We recommend, in the first place, that, as is already the case in some Provinces, all under-trial prisoners shall be allowed to procure books and newspapers at their own expense from outside the jail, subject to such scrutiny and control as the superintendent may consider necessary. They should also be allowed to borrow books from the jail library. They should be given any reasonable supply of stationery and writing materials. In Chapter XI, Section III, we have already made recommendations regarding the receipt and writing of letters by unconvicted prisoners and on the subject of interviews with them.

Supply of food, clothing, etc., to under-trial prisoners from outside.

479. Under section 31 of the Act under-trial prisoners are permitted to maintain themselves and to purchase or receive from private sources food, clothing, bedding and other necessaries and under this provision they may be allowed to supplement at their own expense the jail supply, even though they receive jail diet and bedding or clothing. We think that if any purchase of food or other articles is made under this section of the Act, it should be made through the jailor. It is not at all desirable that under-trial prisoners should be allowed to entrust buying commissions to warders. Again, unless an under-trial prisoner is supplied with cooked food from outside the jail, he must accept food cooked in the general kitchen. It would evidently be impracticable to allow each under-trial prisoner to cook for himself, even if separation by day in cells is not enforced, and no claim to be allowed to cook should be recognised, though it will be open to the superintendent to allow such a privilege in an exceptional case when suitable arrangements can be made. We would allow under-trial prisoners to procure and use tobacco in reasonable quantities at their own expense and under suitable safeguards, but alcohol should not be permitted.

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Rules regarding change of clothes and cutting hair.

480. The rules in the Prison Manuals of most Provinces provide that they shall not be allowed to crop their hair or in any way alter their personal appearance so as to make it difficult to recognise them. An under-trial prisoner should not, however, be prevented from changing his clothes, provided that his appearance is not thereby materially altered when he is presented for identification in the jail or when he is sent to the court for trial ; and we do not approve the practice, which we found to exist in one Province, of not permitting such a prisoner to retain his shoes.

Employment of under-trial prisoners.

481. In the matter of employment, we recommend that the provisions of section 34 of the Prisons Act, 1894, relating to civil prisoners should be extended to unconvicted criminal prisoners. They may be required to keep their yard, wards, and cells clean but should not be called upon to perform duties of a degrading character. They should, in no case, be employed outside their yard.

Imposition of handcuffs and irons on under-trial prisoners.

482. In regard to the question of the use of handcuffs and irons on under-trial prisoners when taken from the jail to the court or to another jail, we have already recommended in Chapter XII, paragraph 303, that no prisoner should appear in court in fetters except with the special permission of the court. In most Jail Manuals the rules lay down that it is for the police to decide whether a prisoner made over to their custody is to be handcuffed and in the exercise of this discretion there is a natural tendency on the part of the police to take no risks and to impose handcuffs freely. It is not within the scope of our duty to deal further with this matter, though we think it is one which local Governments might be moved to take into their consideration.

Rule 810 of the Punjab Prison Manual.

483. Rule 810 of the Punjab Prison Manual lays down that if the superintendent of a jail receives information that an under-trial prisoner in his custody has been previously convicted, he should report the fact to the superintendent of police and to the court about to try the prisoner. This last direction should, we think, be cancelled. It is not proper that information regarding previous convictions should be thus brought to the notice of the court before the prisoner has been tried. It will be quite sufficient to report the matter to the police.

Release of under-trial prisoner on medical grounds.

484. Under Rule 819 of the same Manual if an unconvicted prisoner is so seriously ill as to be likely to die, the superintendent is required to report the fact to the court in order that if the court sees fit, the prisoner may be released on bail. This is a useful provision which does not seem to find a place in the Prison Manual of some Provinces and might, we think, be usefully adopted with the omission of the reference to the likelihood of death.

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Rule 878 of the United Provinces Manual.

485. Rule 878 of the United Provinces Prison Manual lays down that no under-trial prisoner accused of murder should ever be locked up alone, and that if there is no under-trial prisoner who can be confined with him, or her, one at least, or if possible two short-term convicts of the same sex as the under-trial prisoner, shall always be locked up with him, or her. If no short-term female convict is available, the female warder must be locked up with the female under-trial prisoner accused of murder. The *rationale* of this rule is not explained, but presumably the idea is to guard against any risk of escape or suicide. If this is the object, we think it can be quite sufficiently achieved by proper arrangements for guarding outside the cell. From other points of view the rule is objectionable and should, we think, be cancelled. The suggested locking up of two men alone together is contrary to well-understood principles of prison management ; in the particular case in question it is quite unfair to any man, whether convict or under-trial, to force him to share a cell with a prisoner accused of murder and possibly subject to homicidal impulse ; while the direction to lock up convicts with under-trials is in flagrant contravention of the provisions of section 27 of the Prisons Act, 1894.

Provision of food for under-trial prisoners sent to or coming from court.

486. When an under-trial prisoner has to be sent to court, he should be given his food before he goes, and arrangements should be made to enable him to have his food when he returns. This procedure is usually followed, but we think that a provision to this effect should be inserted in the Prison Manuals of all Provinces. If an under-trial prisoner has not been in the jail previously, it should be the duty of the police to see that he has his food before he is taken to the jail if he is likely to arrive there too late for the evening meal.

Under-trial prisoners in subsidiary jails.

487. The recommendations regarding under-trial prisoners which we have made in this Section of the Report should be carried out as far as practicable in subsidiary jails. We shall refer to matters specially affecting female under-trials in the Section dealing with female prisoners.

Section V.—Prisoners under Sentence of Death.

Guard over condemned prisoners should be composed of warders, not police.

488. In Chapter V of this Report we have dealt at considerable length with the question of jail guarding and have supported the view, which was also advocated by the Jail Commissioners of 1889, that the whole work of watch and ward in jails should be done by warders belonging to the Jail Department. For the reasons there given, namely, the avoidance of divided responsibility

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and the concentration of control in the hands of a single authority, we think that the duty of finding the special guard which is in all Provinces posted over prisoners under sentence of death should be undertaken by the warder establishment. This is, indeed, the rule in most Provinces but in some the burden of providing this guard is still laid on the police. Under the rules in force in the latter, as soon as a prisoner is condemned to death, the superintendent of the jail applies to the district superintendent of police to detail a guard and the latter then has the party paraded and instructed in their duties. The police sentry, who is posted over the condemned prisoner, is under the orders of the superintendent of the jail as far as his duty over the prisoner is concerned. If anything wrong or suspicious occurs, the superintendent must presumably report the matter to the district superintendent of police. We cannot think that it is a good arrangement to have a number of policemen inside the jail who own no allegiance to the officer in charge of the prison. Nor does it seem to us wise to divide responsibility between these police and the jail officials. Thus in one Province the jailor keeps the key of the handcuffs on the prisoner, while the head constable keeps the key of the cell-door. The jailor is responsible for the searching of the prisoner and for giving him his food, while the police sentry has to see that no one else goes near him. It seems to us that these Provinces might well fall into line with the rest and entrust the duty of furnishing the special guard over condemned prisoners to the warder establishment.

Rules of the United Provinces regarding use of fetters and belchain on condemned prisoners disapproved.

489. There are certain other rules on this subject in the Prison Manual of the United Provinces which should be reconsidered. Rule 718 provides that leg-irons should only be used where there is reason to be doubtful about the security of the cell. It may be suggested that by this time all such doubts have presumably been removed and all cells used for the custody of condemned prisoners made secure, so that this rule might now be abrogated. Rule 717 lays down that the use of the belchain in the case of condemned prisoners is altogether prohibited "unless they appear to be violent, this point being left to the discretion of the superintendent of the jail to decide." Rule 720 goes on to direct that thugs, professional or hereditary dacoits, and any other prisoner whom the superintendent certifies from his past history or the circumstances attending his conviction, to be specially dangerous, shall be presumed to be violent and therefore the belchain and fetters should be used in their case. Such a direction seems a clear invitation to the superintendent to fetter and secure by a belchain every prisoner under sentence of death rather than take the responsibility of not doing so. We doubt whether there is any other Province in India in which it has been felt to be necessary to secure with fetters and a belchain a single prisoner confined in a cell by himself and under a special guard night and day. Thirty years ago those experienced jail officials—Doctors Walker and Lethbridge—expressed the hope that "these barbarous appliances" would be "altogether ablished," and it is with regret that we find that they not only continue to exist but that in the United Provinces their application to prisoners lying under sentence

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of death is contemplated, if not directly encouraged, by the rules contained in the Prison Manual.

Females under sentence of death should be kept in the female yard and guarded by female warders.

490. On the occasion of our visit to the Cawnpore District Jail, there was in that jail a female prisoner under sentence of death. We were surprised to find that, in spite of the explicit provisions of section 27 of the Prisons Act, 1894, this female prisoner was not kept in the female part of the prison but in a cell in the portion of the prison used for the confinement of male prisoners. The guard over her consisted of policemen. The door of the cell was iron-barred, so that the woman was entirely without privacy of any kind and indeed rule 721 of the Prison Manual expressly lays down that it is the duty of the police sentry to keep the prisoner "constantly in sight." It seems to us hardly necessary to dwell on the serious impropriety of these arrangements. It was urged by the jail authorities that they are in accordance with the rules in the Prison Manual, but this cannot alter the fact that they are in conflict with the provisions of the Act and that they involve a gross breach of the principles of decency, if not of humanity. In most, if not all, other Provinces in India, women under sentence of death are kept in a cell in the female yard and the guard over them is composed of female warders. We recommend that the rules and practice in the United Provinces be revised accordingly.

Condemned prisoners should be allowed books, tobacco, interviews and religious ministrations.

491. During the perod which intervenes between the condemned prisoner's being sentenced to death and his execution, he is at present left without occupation or resources of any kind and with nothing to do but to dwell upon his unfortunate situation and the causes that have led to it. We think that something might be done to alleviate this position. Any prisoner who can read should be provided with a supply of such books as he may wish for ; prisoners who smoke should be given tobacco ; all reasonable indulgences should be allowed in the matter of interviews with relatives, friends and legal advisers ; it should be the duty of the religious teacher of his persuasion attached to the jail to visit the condemned prisoner daily and if he expresses a desire to see any other approved religious minister, endeavours should be made to comply with this request.

Gallows should be near condemned cell and warrant should be read before leaving cell.

492. It is not necessary for us to enter into details regarding execution, as these are in general satisfactorily provided for in the Prison Manuals of most Provinces. We would only remark that the gallows should be near the condemned cells, though not visible from them ; in some places, the condemned prisoner has at present to walk an unduly long way from the cell to the place of execution. The existing rules generally provide that when the condemned prisoner reaches the scaffold, the superintendent shall read out the warrant in English and that it should then be translated into the vernacular by the jailor or other jail officer. The prisoner's identification is

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then proceeded with. We think that both these processes, namely, the identification of the prisoner and the reading of the warrant, might better be carried out before the prisoner leaves his cell than when he is waiting at the foot of the scaffold, and we recommend that the rules should be altered accordingly.

Section VI.—Female Prisoners.

Separation of female prisoners from males.

493. Section 27 of the Prisons Act, 1894, provides that in any prison which contains female as well as male prisoners, the females shall be imprisoned in separate buildings or separate parts of the same building in such manner as to prevent their seeing, or conversing, or holding any intercourse with, any male prisoner. In most central and district jails in India this provision of law is complied with. The only serious exception that came to our notice was in the Common Prison, Bombay, where the female prisoners are confined in the upper storey of a building in the middle of the male jail. Not only are the female prisoners here obliged to remain in their wards for the whole term of their imprisonment but the measure of separation from male prisoners is inadequate. This prison has long been condemned and ought to be replaced as soon as possible.

In future construction, female yard should be a separate enclosure.

494. In building any new jails hereafter we think that the female yard should be so arranged that it shall be altogether separate from the male jail; but there should be communication by telephone or bell with the main gate of the jail. Female prisoners or lady visitors entering the jail should be able to reach the female yard without coming under the observation of the male prisoners. We show how this can be arranged in our Chapter on prison construction.

Classification and segregation of female prisoners.

495. Section 27 of the Prisons Act not only requires the separation of males from females, but also the separation of unconvicted from convicted prisoners. We fear that in a great many cases this requirement has not yet been complied with. Moreover, it is not only desirable to separate the convict from the unconvicted prisoner but it is also most necessary to keep female adolescents away from older prisoners, habituals from non-habituals, and prostitutes and procuresses from women who have lived hitherto a respectable life. Witnesses have told us of cases in which a young woman committed to prison for some breach of the excise law has found that her only companion in jail was a procuress. It used to be said that procuresses secured their committal to the Penitentiary, Madras, on short sentences in order to collect recruits for their trade and that at any rate they utilised their imprisonment for this purpose. It is clearly a scandal that a young woman who, from sense of shame,

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has abandoned her child and is sent to prison for this offence should be exposed to such contaminating influences, and the necessity for the proper classification and segregation of female prisoners is thus a very urgent matter.

Concentration of female prisoners at selected centres recommended.

496. It is, however, most difficult in the limited space available in many existing prisons to arrange for such segregation. Moreover, owing to the very small number of female prisoners admitted to prison in this country, the carrying out of such segregation is attended by the drawback that it is liable to result in women being kept practically in solitary confinement throughout the whole term of their sentence. In the case of young or nervous women it not only seems inhumane, but may have a definitely prejudicial mental effect to lock them up separately by night and day for several months or years. On the other hand, to let them mix freely with habitual thieves or prostitutes exposes them to constant contamination. The only remedy for these difficulties seems to be in some measure of concentration. Female prisoners whose sentences exceed a few weeks should be collected at central points, preferably, but not necessarily, central jails, where proper arrangements can be made for the complete separation of the classes mentioned in paragraph 495 above. We are aware that even this step is open to some criticism. The Jail Conference of 1877 remarked : " that as there are strong objections to removing them (women) far from their homes, it is inexpedient to transfer any but quite long-termed prisoners to special jails." We recognise that this objection is not groundless and that it would be preferable, if possible, to keep female prisoners near their homes so that their relatives could come and see them from time to time and thus keep in touch with them and receive them on release. It is doubtless a choice of evils ; but we think that it is preferable to protect women, and especially the young, from the almost certain contamination involved in prolonged association with prostitutes and thieves rather than to secure the advantage connected with proproximity to their homes. We, therefore, recommend that the question of concentrating female prisoners at a few convenient centres and of there providing complete and efficient means of classification and segregation should be undertaken by all local Governments.

Matron or female warder to be provided at every jail where female prisoners are received.

497. It is essential that in every prison where female prisoners are received, there should be a matron or female warder attached to the staff. Such matron or warder should be furnished with an official uniform. Without such female officials, the most elementary rules of jail administration cannot be carried out. Thus section 24 (3) of the Prisons Act rightly prohibits the search and examination of female prisoners except by a female officer. This circumstance again furnishes a reason in favour of some measure of concentration. As the Jail Conference of 1877 observed, " in many jails there are no female prisoners for months together." Nevertheless, it does not seem to us be impossible to provide that when a female prisoner is admitted, there shall be a female staff to look after her. An arrangement for this

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purpose can generally be made without great expense with the wife of one of the head warders or warders; but such plans are of a somewhat makeshift character. They do not get over the difficulties attending segregation or the objections to keeping the prisoner in solitary confinement. For these difficulties concentration as above suggested appears to be the only solution.

Escorting of female prisoners.

498. Such concentration involves the escorting of the women from the jail of original confinement to the selected female central place of detention and back on release. We feel strongly that such escort should not be left to be carried out by the police alone. It is quite unjustifiable to hand over a woman, especially if she is young, to be conveyed a long journey, sometimes by rail, sometimes by road or river, in the sole custody of one or two male policemen. In every case the prisoner should, we think, be accompanied by a female warder and no female prisoner should be sent anywhere with only a male escort. We recommend that at each jail, which is selected as a central point for the concentration of female prisoners, a sufficient force of female warders should be maintained to enable such escort to be furnished. Then, when a female prisoner is admitted, the superintendent of the receiving jail would telegraph or write for a female escort to be sent down and in suitable cases the female warder could take the female prisoner to the central depôt without any police escort. In other cases, she would accompany the police escort. There may be difficulties in many parts of India in obtaining suitable women for prison employment, and it will certainly be necessary to offer liberal rates of pay.

Female prisoners in subsidiary jails.

499. Similar arrangements should, as far as possible, be made in connection with subsidiary jails. If the recommendation which we have made in Chapter XV, Section IV, is accepted, we hope that the committal of women to subsidiary jails to undergo terms of imprisonment will cease. When, however, women are remanded to sub-jails pending trial, the superintendent of the sub-jail should engage some respectable woman in the neighbourhood to perform the duties of female warder while the need lasts.

Employment of female prisoners.

500. The usual method of employing female prisoners in jails in to occupy them in cooking or in the preparation of some of the articles of food such as pounding, husking or sifting grain and the like. The advice of inspectresses of schools conversant with domestic economy might, we think, be obtained by local Governments as to the possibility of finding other methods of employment for women prisoners. It was suggested by one of our witnesses that it would be useful to give female prisoners instruction in needlework and this is a suggestion with might be considered if female prisoners are concentrated in somewhat larger numbers at central points. It may, however, be pointed out that Indian dress, both of males and females, is to a great extent unsewn, so that in many parts of India knowledge of how to use a needle would not be of great use to a

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woman, while in all parts it is much less essential than in European countries. On the other hand, the preparation of food is the invariable duty of the women and they are able to do it far better than men. They should not, however, be employed on grinding grain, except as a punishment.

Children of female prisoners.

501. In the Jail Manuals of most Provinces it is laid down that if a female prisoner has with her at the time of admission a child under two years of age which is still at the breast or if a child is born to a female prisoner in prison, it may be allowed to remain with the mother until is two years of age. It was suggested to us that this rule might be amended so as to allow any female prisoner to retain a child until it is four or, with the approval of the superintendent, even up to six years of age, if she so desires. It is unlikely that the child will be prejudicially affected by being in the prison up to that age, while it is in many ways better that the mother should be allowed to retain possession of it unless she has friends or relatives with whom to leave it.

Other matters affecting female prisoners.

502. We have touched on questions affecting female prisoners under sentence of death in the Section of this Chapter relating to condemned prisoners. We have already made some recommendations in Chapter XII, Section II, regarding female clothing and we would add here that they should be given a reasonable supply of oil for their hair.

Section VII.—Lepers.

A special jail or annexe should be provided for lepers.

503. In every Province a special jail, or annexe to a jail, should be provided for the reception of leper convicts, and every leper convict whose sentence is of sufficient length should be promptly transferred to this special jail or annexe.

All lepers to be segregated from all other prisoners.

504. Pending transfer, or if the prisoner's sentence is so short as to make transfer inexpedient, every leper should be kept separate from all other prisoners and should sleep in a separate cell. The existing provisions contained in the Prison Manuals of some Provinces lay down that only lepers in whom the disease is in its ulcerative stage need be segregated. As, however, it is now known that the *lepra bacillus* occurs in the nasal discharges, it is no longer safe to follow this rule, and every prisoner, whether convict, under-trial or civil, found to be suffering from the disease should invariably be segregated from all other prisoners.

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505. Any cell, or other building, which has been occupied by a leper prisoner should be thoroughly disinfected, the walls scraped and whitewashed, and the floor, if of earth, renewed, before it is used for any other purpose. Clothing and bedding that has been used by a leper is, of course, never re-issued except to another leper prisoner.

Disinfection of cell occupied by leper.

506. The number of female lepers admitted into jail is fortunately very small, but if such a case occurs, it should be strictly segregated, and if under a long sentence should be removed to the special jail or annexe for lepers.

Female lepers.

Section VIII.—Lunatics.

507. The Jail Conference of 1877 passed a unanimous resolution that accommodation other than in jails should be provided for non-criminal lunatics, *i.e.*, persons arrested and confined under Act XXXVI of 1858 (now repealed and replaced by the Indian Lunacy Act, 1912). The members of the Conference suggested that proper provision for this class of person should be provided in connection with the civil hospital, so that civil patients should not be placed in a jail. Although forty years have passed since this recommendation was submitted, little, if any, attempt has been made to give effect to it. The rules in force in most Provinces still contemplate the committal to a criminal jail of persons arrested as insane under the Indian Lunacy Act, 1912, and such persons are still frequently received in jails. For many reasons we are of opinion that this system should be put an end to. It seems to us to be wrong in principle that civil lunatics should be exposed to the indignity of committal to jail, a procedure to which their relatives or friends, if not they themselves, might reasonably object. Nor is a jail the right place for the detention of mental cases. There is no trained staff to deal with them and no proper accommodation in which to keep them. When admitted they have to be placed in an ordinary cell and left to the care of ordinary warders. In view of the importance of early treatment in cases of mental disease, we would strongly urge that arrangements for their reception in the various local hospitals of the country should, as far as possible, be made.

Non-criminal lunatics should not be sent to criminal jails.

508. In the case of criminal lunatics likewise it is very undesirable that they should be detained a day longer than is necessary in a jail. We think that prompter action might often be taken to procure their removal from the jail

Prompt removal of criminal lunatics from jail to lunatic asylum desirable.

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to a lunatic asylum. The Prison Manuals of some Provinces contain a rule permitting the superintendent of the jail, when the case is urgent, *i.e.*, if the lunatic is dangerous, noisy or filthy in his habits, after obtaining the consent of the superintendent of the lunatic asylum, to despatch the patient to the asylum in anticipation of government sanction. We recommend that this course should be taken more extensively than is at present the case and that it should not be limited to the class of cases covered by the Punjab rule, but should be applied to all cases as soon as the necessary certificate has been signed.

Concentration of criminal lunatics in selected jails recommended.

509. There will, however, remain cases in which lunatics will still be in a jail, as, for instance, cases where the lunatic has been acquitted under section 471 of the Code of Criminal Procedure on the ground that, though he committed the act alleged, he was insane at the time of its commission, and has subsequently recovered his sanity. It is both dangerous and inconvenient to keep such persons in the portions of a jail where ordinary criminal prisoners are confined. A recurrence of the mental derangement is always possible, and if the original crime was one against the person, such a recurrence may have serious results. Moreover, it is very desirable that such persons should, as far as possible, be kept under skilled supervision and treatment. They cannot be brought under the ordinary jail routine or subjected to the usual rules in regard to labour and discipline, and their presence in an ordinary prison is prejudicial to the general administration. We recommend that they should be concentrated at selected jails, so that the danger and inconvenience arising from their presence may be restricted as much as possible, and that it may be practicable at these selected prisons to make special arrangements for their care and treatment. This will, no doubt, not entirely remove the objections to the presence of such persons in jail but it will do something to produce improvement on the present state of affairs.

Instructions to be withdrawn.

510. In this connection we desire to refer to the Government of India (Home Department) letter Nos. 15-1609-1617, dated the 15th October 1888, which invited the attention of local Governments to the proceedings of the Government of Bengal, published at pages 1699 to 1715 of the Supplement to the Calcutta Gazette, dated the 22nd August 1888, regarding the treatment of recovered lunatics. The remarks of the Committee appointed by the Bengal Government were no doubt in accordance with the medical knowledge of the day when they were made, but we are advised that they are now quite out of date and are likely to be seriously misleading. In particular, the suggestion that a recovered criminal lunatic should be employed as a convict officer in the jail to which he is sent to undergo his period of probation is altogether inappropriate and might lead to serious consequences. We recommend that this circular should no longer be relied on as an authoritative direction for dealing with the case of criminal lunatics and that it should be withdrawn and new rules substituted.

ANNEXURE TO CHAPTER XVII.

Statement showing the daily average number of Civil Prisoners in all the Central and District Jails in the Provinces for the three years 1916, 1917, and 1918. (*Referred to in paragraph 463*).

Province.	Total daily average number in all central and district jails of the Province.	Daily average number in a central or district jail.
Madras	**1250.56**	**29.77**
Bombay	**144.00**	**3.20**
Bengal	**83.58**	**0.96**
United Provinces	**797.00**	**5.31**
Punjab	**155.00**	**2.24**
Bihar and Orissa	**72.83**	**1.10**
Burma	**397.60**	**4.17**
Central Provinces	33.76	0.76
Assam	7.42	0.22
North-West Frontier Province	**78.00**	**5.20**

CHAPTER XVIII.

VISITORS.

Importance of system of visitors, official and non-official.

511. The plan of appointing persons, official and non-official, to serve as visitors to jails seems to us to form a very valuable part of the Indian system of jail administration. In the first place, it insures the existence of a body of free and unbiassed observers, whose visits serve as a guarantee to the Government and to the public, that the rules of the Prisons Act and Prison Manuals are duly observed, and that abuses, if they were to spring up, would be speedily brought to light. In this respect the Indian system is, we think, superior to that followed in other countries where the visitors become a part of the prison organization, with definite powers and duties, and so become more or less identified with the prison administration. In India, they remain impartial and independent. In the second place, the existence of non-official visitors is specially valuable as supplying a training ground where members of the public can obtain an insight into jail problems and learn to take an interest in prisons and prisoners. It is of great importance to create such an interest in the public mind and the appointment of non-officials is one of the best methods of promoting this end. Although, therefore, some of our witnesses have criticised the system, we think it has only to be extended and improved in order to be productive of even greater advantages in the future than in the past.

A sufficient number of visitors to be appointed in all Provinces.

512. Accordingly, we are strongly of opinion that in all Provinces a sufficient number of official and non-official visitors should be appointed for every central and district jail, and for such subsidiary jails as the local Government may direct. Hitherto, in more than one Province this matter has not received the attention it deserves. Thus, in Burma we were told that there were only two or three jails, Rangoon, Meiktila, and Mandalay, where non-official visitors have been regularly appointed. In the Central Provinces, there are no non-official visitors (except two recently appointed to visit two "internees" in the Betul Jail). In the United Provinces, the Prison Manual (rule 91) says "non-official visitors may be appointed to the central prisons of these Provinces," and we understand that there are no non-official visitors in any district jail. We venture to express the hope that this matter will now be taken up and steadily pressed forward by all local Governments.

Appointment of official visitors.

513. The rules regarding the appointment of official visitors do not appear to differ very much in the different Provinces. Those officials who occupy this position generally do so by virtue of their office. Their selection is a matter

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of convenience which may be left to local Governments. We would only draw attention to the fact that in view of our recommendations on the subject of education, it is desirable that the local inspector of schools or other officer of the Education Department should either be an *ex-officio* visitor of the central and district jails within his jurisdiction or should be given the right of free entry to the jails during business hours for purposes connected with the discharge of his official duties, as is the rule in the case of the superintending engineer and local executive and assistant engineers in Madras and other Provinces. We would also lay some stress on the importance of the sessions judge and the superior magistrates of the district being on the board of visitors and so becoming acquainted with the practical carrying out and effect of the sentences which, in their judicial capacity, they have to impose.

Number of non-official visitors.

514. The number of non-official visitors appointed to central and district jails, in those Provinces in which such appointments are now made, varies. In Madras, the number is two for each district jail and three for each central jail ; in Bengal, two for subsidiary jails, three for district jails and six for central jails ; and, in the United Provinces, six for central jails but, as already noticed, none for district jails. We are aware that owing to the educational and other differences between Provinces it may not be equally easy in all Provinces to find persons suited to the position of non-official visitor and that therefore it may be undesirable to lay down a general rule on the subject ; but for the reasons given in paragraph 511 the advantages of appointing a larger number of visitors seem to us to be important and we therefore suggest that in those Provinces where the number usually appointed is less than that adopted in Bengal, the question whether it might not be raised to the Bengal standard may be considered by the local Government concerned.

Appointment of non-official visitors.

515. Every appointment of a non-official visitor should, we think, be notified in the official gazette of the Province. Whether the appointment is made by the local Government or by the divisional commissioner is perhaps a matter of convenience which may be left to be dealt with in accordance with the custom of the Province. We would merely observe that it is desirable to mark, as much as possible, the importance which the position of a visitor conveys and therefore to confine the power of appointment to the highest convenient authority. In the course of the evidence given before us, the suggestion was made by one or two witnesses that non-official visitors of jails should be elected by local bodies. We have given careful consideration to this suggestion and have arrived at the conclusion that its adoption would be inexpedient. The person selected for the position of a non-official visitor of a jail should be chosen on the ground of definite qualifications, such as an interest in prison matters or other social work, or ability and willingness to assist in finding work for prisoners on release. Thus, a man who has served as a member of the governing body of the local discharged prisoners' aid society would generally be suitable for appointment as a non-official visitor. Selection should not be made solely on the ground of social position, wealth or

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political influence, but on the basis of special fitness, and this the method of appointment by election would not in any way secure.

Period of appointment of non-official visitors.

516. If the post of non-official visitor is to be held by persons taking a real interest in jail administration and ready to give practical assistance in such aspects of it as the task of finding employment for prisoners on release, it is very desirable that there should be reasonable continuity in tenure. The period for which appointments are made at present is in most Provinces two and in others five years. We do not object to this limitation, provided that it is expressly laid down that every non-official visitor is eligible for re-appointment at the expiry of his term. The advantage claimed for the practice of fixing a definite period of tenure of office is that it enables a visitor who has shown no interest in the jail administration to be easily eliminated. It might be contended that the same end could be achieved by the local Government's exercising the right to remove for inefficiency, but this would involve such unpleasantness that it would probably be seldom exercised. We think, therefore, that the appointments of non-official visitors should continue, as at present, to be for stated periods, but that it should be clearly recognised that a visitor who has shown interest in his work and has proved his usefulness in the post ought to be re-appointed again and again so long as he is fit and willing to serve and should not be dropped out merely on the ground that he has held the post long enough, or that he should make way for others, or that he is not a *persona grata* with the jail authorities.

Visiting insufficient in certain Provinces.

517. We have already referred to the fact that in several Provinces non-official visitors have not been appointed at all, or to a very limited extent. Even where they have been appointed, the number of visits paid by them has been insufficient and official visitors also have not always carried out the duty of visiting the jails within their jurisdiction in an adequate manner. The Jail Commissioners of 1889 noticed this matter in Chapter XXX of their Report and we doubt whether matters have improved very greatly in this respect in the last thirty years. Thus, at the Borstal Central Jail at Lahore we noticed that on the date of our visit (9th April 1920) the Visitors' Book contained no record of any visit by the deputy commissioner since July 1916 or by the commissioner since February 1917. In several Provinces the Annual Jail Administration Reports bear witness to the failure of official and non-official visitors to pay even the minimum number of visits prescribed by rule.

System of visiting recommended.

518. It seems to us desirable that more systematic arrangements should be made to ensure that jails in all Provinces are regularly visited and for this purpose we recommend the adoption of the methods in force in Bombay. In that Presidency the rules provide for an inspection of every jail once a week by an individual visitor and for an inspection once a quarter by a board of visitors. We recommend that the official and non-official visitors of each jail shall constitute a board, of which the district magistrate should be *ex-officio* chairman. It should

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be the duty of the district magistrate to arrange the roster for weekly visits to the jail so as to give each visitor, official and non-official, his due turn and to send out a notice by post-card intimating whose turn it is to visit the jail in the coming week. There should not be a fixed day of the week for these visits but they should be paid on varying days. There should also be a quarterly meeting of the board of visitors on such day as the district magistrate may determine. The board should meet at the jail, inspect all buildings and prisoners, hear any complaints and petitions that may be preferred, inspect the prisoners' food and see that it is of good quality and properly cooked and examine the punishment book and satisfy themselves that it is kept up to date. Their further duties should be specified in the pamphlet suggested in paragraph 520. Non-official as well as official visitors should attend the quarterly meetings of the board. It should be clearly recognised that the quarterly collective visit does not supersede, and should not take the place of, visits by individual visitors.

Non-official visitors should have the same powers and duties as official visitors.

519. It seems to us essential that non-official visitors should possess the same powers and be entrusted with the same duties as official visitors. If the former are to take a genuine interest in jail administration it seems clear that they must be given no less facilities for the study of jail conditions than are possessed by the officials. This view is in accordance with the rules already in force in Bengal, Bombay and Madras, but it is not clearly brought out in the Jail Manuals of other Provinces. Thus, rule 49 of the Punjab Jail Manual lays down that an official visitor may examine all or any of the jail records and may interview any prisoner confined in the jail, but there is no similar rule applicable to non-official visitors and the terms of rule 53 relating to the powers and duties of the latter seem to be framed with the intention of drawing a distinction between the powers of the official and of the non-official visitors. The Jail Manual of the United Provinces contains no definition or description whatever of the duties of non-official visitors ; the record of their visits is to be made in a book different from that in which the visits of official visitors are recorded ; the Inspector-general of Prisons is under no obligation to pass any orders on the remarks of non-official visitors ; and it would seem doubtful whether in this Province this class of visitor possesses any power to call for papers or to see individual prisoners.

Recommendations regarding powers and duties of visitors.

520. We recommend that the rules on this subject should be revised so as to be applicable both to official and non-official visitors. Every visitor should have the power to call for and inspect any book or other record in the jail unless the superintendent, for reasons to be recorded in writing, decline on the ground that its production is undesirable. Similarly, every visitor should have the right to see any prisoner and to put any questions to him out of the hearing of any jail officer. There should be one visitors' book for both classes of visitors, their remarks should in both cases be forwarded to the Inspector-general who should pass such orders as he thinks necessary, and a copy of the Inspector-general's orders should be sent to the visitor concerned. As already mentioned in Chapter X, paragraph 237 (*ii*), no prisoner should be

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punished for any complaint or statement he may have made to a visitor unless the visitor in question concurs. A pamphlet setting out the powers and duties of visitors should be drawn up and supplied to the office of each official visitor and to each non-official visitor on appointment.

Visits—how to be conducted.

521. The visits of visitors, official and non-official, are of much value to the superintendent of a jail, for they supply the best available evidence that no ascertainable irregularity exists in the jail and that every prisoner has had an opportunity of preferring any complaint he may wish to make regarding his treatment. Such visits should, therefore, be welcomed and encouraged. The same respect should be paid to non-official as to official visitors and the requests of the former for information should be complied with as readily as those of the latter. It should be clearly understood (*i*) that no visitor can be allowed to go round a jail without an escort, which is necessary for his personal safety and should consist of at least two warders ; (*ii*) that any visitor is at liberty to go round the jail unattended, except for the warder escort, if he so desires ; (*iii*) that except on the occasion of quarterly meetings, no visitor can claim to be accompanied on his rounds by the superintendent, jailor, deputy jailor or assistant jailor : all these officials have heavy and responsible duties to perform and should not be called away to accompany visitors except in special circumstances.

Lady visitors to be appointed for prisons where there are female prisoners.

522. For all central and district jails where female prisoners are confined, we recommend that lady visitors should be appointed. Not only do women notice small matters that escape men's notice but female prisoners will confide matters to women which they will not tell to male visitors. Hitherto, there has been no rule requiring the appointment of lady visitors, though in the case of more than one prison lady visitors have visited the female prisoners and their visits have been much appreciated. Many of our witnesses pressed upon us the desirability of the appointment of lady visitors, and though at first some difficulty may be met with in selecting suitable persons, this will doubtless be gradually overcome. Where European ladies are appointed is necessary to pass through it in order to reach the female yard.

Powers and duties of lady visitors.

523. Lady visitors should have the same powers and duties as male visitors except that their functions should extend only to the female prisoners and the female yard and that they should have nothing to do with the male portion of the prison. The presence of women within male prisons is from every point of view undesirable and lady visitors should not enter the male portion unless it is necessary to pass through it in order to reach the female ward.

CHAPTER XIX.

PRINCIPLES OF PRISON CONSTRUCTION.

Area to be provided within a jail.

524. The first point to which we would invite attention in connection with prison construction is the necessity of including an adequate area within the enclosing wall of the jail. In 1889 Drs. Walker and Lethbrige stated that in the then state of knowledge on this subject 50 square yards per man was a safe minimum to adopt. Since then further experience has been obtained on the question and we think that it is now desirable to lay down that the minimum should be taken to be 75 square yards per inmate. In the case of a central jail, the maximum population of which will not according to our recommendation ever exceed 1,500, the area within the enclosing wall should thus be not less than 23.25 acres. It may, with advantage, be more and we think that except where land is specially valuable the ground area should be taken at 100 square yards per inmate ; thus providing 30 acres for a full sized central jail. There are many obvious reasons why it is desirable to have ample space available inside a jail—avoidance of crowded buildings, free perflation of air, need of sites for fresh buildings, etc.

Area to be provided outside a jail.

525. The second point to which it seems desirable to make reference is the wisdom and eventual economy not only of providing an adequate area within the jail enclosing wall but also of taking up a sufficient area of land outside the jail, whenever a new jail is to be planned in fairly open country. If the jail is to be self-supporting in the matter of vegetables, a large area is essential and for a full sized central jail with a maximum population of 1,500, we think that not less than 30 acres should be provided for the garden. Of course, a considerably large extent of land would be required in case it is desired to undertake any regular agricultural work or the production of fuel for the jail. In other Chapters we have dwelt on the desirability of providing quarters for the warder staff, and the need for houses for all the superior staff is already recognised in most Provinces. A considerable area is needed for these purposes and it is beneficial from all points of view that a reasonably large radius round a jail should be jail property, for there is a tendency for bazars to spring up in the neighbourhood of a jail in order to supply the wants of the jail establishment, and if the free population is allowed to come too close, it is liable to be a source of much annoyance and difficulty.

Distance of site from town.

526. The choice of a site for a jail will depend on so many considerations that it is impossible to lay down any general principles which should regulate

it, but from what we have already said it is obvious that it should not be inside a city or large town, but should be quite on the outskirts, if it cannot be placed still further away. We think that it is generally best to select a site a mile or two miles from town limits, but we would deprecate ordinarily going to a much greater distance, as the jail staff will thereby be very much isolated, and unless there is a good bazar within reach the subordinates will be put to much inconvenience.

Lay-out of a jail.

527. The lay-out of the buildings composing a jail must necessarily depend very much on the character of the site and general rules must, therefore, yield to local conditions. We have, however, prepared a plan (No. 1 in Appendix XIII) to represent, as far as possible, the lay-out which should be adopted on an ideal site, that is, one which is of adequate size, fairly level, and unaffected by special conditions of any kind. We may here draw attention to a few points which seem to us to be of special importance in connection with the question of lay-out :

Quarantine.

(*i*) In many Provinces the arrangements for quarantine of newly admitted prisoners are very inadequate. The essentials of a satisfactory quarantine yard are that it shall be so near the main gate that prisoners on arrival can go straight into it without traversing more than a minimum part of the jail, that it shall be capable of being sub-divided into three sub-yards, so as to enable prisoners to be passed on from one sub-yard to another after they have undergone a third or two-thirds of the quarantine period, and that the buildings shall be entirely cellular so that, if a case of infectious disease does occur, the chances of other prisoners having incurred the infection may be as far as possible reduced. It will, of course, be recognised that even if these arrangements are provided, the security against the introduction of communicable disease into a jail is by no means complete, but by keeping each prisoner in a separate cell by night and day during the quarantine period and by taking precautions as far as possible against any communication between one prisoner and another, a very fair degree of practical security should ordinarily be secured.

Hospital.

(*ii*) The hospital yard should be placed near the main gate, and should, if possible, have direct communication with the quarantine yard, in order that cases of illness may be removed direct from the quarantine yard to hospital without entering any other part of the jail.

Under-trials.

(*iii*) In jails in which under-trial prisoners are received, it is obviously necessary that the yard for their confinement should also

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be as near the main gate as possible and that they should have to traverse as small a part of the jail as possible in order to reach it. The under-trial prisoner is a greater danger to the health of the jail than the newly admitted prisoner undergoing quarantine; for the latter arrives but once whereas the former may have to go many times to the court for inquiry or trial, and each time he returns he is a possible source of infection. We have already recommended on other grounds that all accommodation in the under-trial yard shall be cellular, and that the yard shall be divided into three sub-yards. These arrangements will furnish a certain measure of security but nothing can entirely protect the jail from the danger caused by prisoners constantly going to and coming from the courts.

Civil prisoners.

(*iv*) If civil prisoners are received in the criminal jail the yard for their detention should be placed in a convenient position outside the main gate and main enclosing wall of the jail.

Females.

(*v*) It is, we think, very desirable that the female yard should be so placed that it can be reached without entering the portion of the jail reserved for males. This can be arranged either by providing a separate entrance to the female yard or by giving access to it by a secluded passage leading from the main gate and so placed that female prisoners and female visitors can reach the female yard unobserved.

Store-rooms.

(*vi*) Store-rooms also should be near the main gate in order that carts bringing in bags of grain and pulse or other articles shall not have to go farther into the jail than can be avoided. Indeed, one of the chief difficulties in arranging the lay out of a jail is the arrangement of those yards and building which have to be grouped at or near the main gate.

Main entrance.

(*vii*) The main entrance to the jail should be protected by two gates, an inner and an outer, with sufficient space between the gates to enable at least two bullock carts to be halted. The offices of the jail can be grouped on each side of the inter-gate space. A plan of the arrangement is shown in Plan No. 2.

Jail ward or barrack.

528. The design for a jail ward or barrack does not differ very greatly in the different Provinces of India. No ward should be designed to contain more than forty prisoners. Ventilation is an important matter and not less than

twelve square feet of ventilating surface should be provided for each inmate. We have laid stress elsewhere on the need for good lighting and have advocated an electric installation for every central jail. Where this is not practicable, at least one good lantern for every 25 running feet of length in the ward should be provided. The ceiling or roof should be whitewashed or otherwise coloured white, so as the better to reflect the light downwards. We have also referred elsewhere to the desirability of there being a cage-latrine for each ward. A design for such a latrine forms Plan No. 3 in Appendix XIII.

Jail cells.

529. The type of cell which exists in the jails of most Provinces is far from satisfactory and could be easily improved on. In no case should cells be constructed back to back. The cellular jails and blocks erected in recent years in the Madras Presidency seem to be generally suitable to the more equable climates such as Madras, Burma, Bengal and parts of Bombay and do not require material alteration. A plan showing this type of cell forms Plan No. 4 in Appendix XIII. But in those Provinces in which very high temperatures are experienced in the hot weather such as the United Provinces, the Punjab and the North-West Frontier Province, some further modification is needed. We have prepared a plan (No. 5 in Appendix XIII) which provides an outer chamber or cage with an iron barred roof where, during the hot months, the occupant can be allowed to sleep, while in the colder months he can sleep inside the cell. We are opposed to the provision of any batten door for use even in the cold months, and are of opinion that the proper way in which to meet the change of temperature is to issue extra blankets. It is a well established fact that even delicate persons can sleep in open verendahs during a European winter without injury, provided that they have bedding enough to keep them warm. On this point we would invite attention to the remarks of Dr. A. Lankester on pages 39 and 47 of his Report on Tuberculosis in India (1915). We have come to the conclusion that the back-ventilator at floor level of the cell is unnecessary and may be dispensed with and we have instead provided a much larger upper ventilator or clerestory window in the back wall of the cell and a corresponding one over the cell door. In localities where the hot weather cage is provided in lieu of a verandah, the cells should be faced to the east so as to prevent the sun from striking into the cell in the afternoon. There must, of course, be a sunshade over both the ventilators.

Latrines.

530. In Section III of Chapter XII we have referred to the necessity of providing adequate latrine accommodation in every jail, and have remarked that every general latrine should have foot-rests and that the partition between each space should be sufficiently high to give a reasonable amount of privacy. The foot rests should, if possible, consist of blocks of granite or other non-absorbent material. Brick-work (brick in *chunam*) absorbs moisture and soon becomes foul. There should also be a supply of water for ablution at or close to the latrine.

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Hospital.

531. The hospital enclosure, which, as we have already said, should be near the main gate, should include adequate means of separating the following classes of cases (*a*) tubercle, (*b*) dysentery, and (*c*) venereal. There should also be a small isolation block for such cases as cholera, plague, small-pox, mumps, or measles. This may be in the hospital enclosure if there is sufficient space available there. If not, it should be outside the jail, well away from warders' lines and other quarters, but not so remote that subordinates will be likely to neglect to visit it. If these isolation sheds are thus placed outside the jail, a small room for the medical subordinate on duty there must be attached. A night room for the sub-assistant surgeon is also needed in the main hospital block. There should be a small but well lighted operating room in every jail hospital, although as we have suggested in Chapter XII, paragraph 321 cases involving serious operations may sometimes be sent to the civil hospital.

Dividing walls between yards.

532. In many of the jails which we visited, we noticed that every yard in the jail was enclosed by brick or stone walls. It is no doubt true that in the case of an *emeute,* there are advantages in the prisoners who are breaking out in one yard not being visible to those in another yard. But an *emeute* is a very rare event, not more than one occurring in a Province in twenty years. With a properly drilled guard, there should be no difficulty in quelling such disturbances. On the other hand, these dividing walls of brick or stone receive, store up and give off heat every day throughout the hot months and add greatly to the oppression and stagnation of air, which are so frequently and severely felt in Indian prisons at that season. On the whole, therefore, we think that, wherever possible, solid walls should be dispensed with and iron railings between enclosures adopted inside. This is most necessary when the yards are small, but the possibility of substituting railings for walls should, we think, everywhere be borne in mind when the construction of a new jail or an extension to a jail is in prospect.

CHAPTER XX.

SUBSIDIARY JAILS.

Reasons for existence of subsidiary jails.

533. In a country so extensive as India it is obviously necessary that there should be provided places for the confinement of prisoners in addition to the district and central jails which have been the principal subject of this Report. Wherever there is a magistrate's court, there must be some place where prisoners on remand before that court can be confined and it is an accepted principle of Indian administration that such prisoners should not be left in the hands of the police longer than is absolutely necessary. Hence arises the necessity for the small jails (generally treated subsidiary jails), in which are confined persons on remand, and also in some cases those committed for trial, convicted prisoners who are passing through the station *en route* from one prison to another, prisoners brought from a district or central jail to appear before the local courts under the Prisoners' Testimony Act, and also in many cases prisoners sentenced to short terms of imprisonment, the limit of detention in a sub-jail ranging from ten to thirty days according to the distance from the nearest central and district jail and other local conditions.

Reasons for varying number of sub-jails in different Provinces.

534. The number of subsidiary jails varies extraordinarily in the various Provinces, as the following figures show :—

Madras	318	United Provinces	44	Assam	13
Bombay	247	Bihar and Orissa	42	North West Frontier Province	8
Bengal	57	Punjab	43	Central Provinces	7

There is doubtless more than one explanation of these variations. In the Madras Presidency the magistrates are not collected at district or divisional headquarters but are stationed each at the chief town of the *taluk* (*tahsil*) or division of the *taluk* forming the magistrate's local jurisdiction. In consequence of this arrangement each district contains nearly as many subsidiary jails as there are subordinate magistrates. In Bombay also the magistrates are not concentrated at headquarter stations. In some other Provinces the magistracy is less scattered and hence fewer subsidiary jails are necessary. But this is not the only cause of difference in the number of sub-jails. The fact seems to be that in most Provinces the place occupied by subsidiary jails in Bengal, Madras and Bombay is taken by places of confinement, known either as magisterial lock-ups or police lock-ups. These places are not classed as subsidiary jails and prisoners in them are practically under police control, even though they are detained by virtue of a magisterial remand order. In the case of police lock-ups the police have

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full access to the prisoners confined therein, while the position in the case of magisterial lock-ups, though perhaps in theory different, is in practice much the same. In so far as lock-ups are used for the detention of prisoners who would in Bengal and Madras be in a subsidiary jail, it seems clear that the principle which forbids under-trial prisoners being left in the hands of the police is violated.

Prisoners should not remain under police control.

535. We think that the principle is a sound one and should be generally observed. It is for many reasons undesirable that any prisoners, and especially those on remand or committed for trial, should remain in the custody of the police. Such arrangement gives opportunities for pressure of various kinds being brought to bear on accused persons and also renders possible other irregularities, such as communication between the accused and withnesses, collusive identification of accused parties and so on. The retention of accused persons in lock-ups is therefore undesirable in principle. We have reason to believe also that in practice these lock-ups often need reform far more than the prisons. One district magistrate in his evidence remarked that the under-trial prisoner in a lock-up suffers far more than a convicted prisoner serving a sentence of rigorous imprisonment in a regular jail. Other witnesses' evidence was much to the same effect. We think, therefore, that wherever prisoners on remand or committed for trial are at present kept in a magisterial lock-up, which is practically under police control, or in a police lock-up, that lock-up should be notified as a subsidiary jail and be brought within the purview of the duties of the Inspector-general of Prisons, as is now the case in Madras and Bombay. We recommend that in all Provinces the question of converting magisterial lock-ups into subsidiary jails should now be considered. We are not here referring to the police lock-ups which form a necessary part of every police station and must remain under police control, but no prisoner should be kept in such a lock-up after he has been placed before a magistrate, except by virtue of an order under section 167 of the Criminal Procedure Code.

Warder staff in subsidiary jails.

536. It is, however, not sufficient merely by a stroke of the pen to convert lock-ups into subsidiary jails. It is necessary also to make such practical changes in the control of the sub-jails as will ensure that prisoners kept in them are not subject to police influence. This does not appear to have been completely effected in any Province, except Bengal. In Madras a single warder has been appointed, who keeps the keys of the wards and who should lock and unlock the doors himself ; but under the Madras Sub-Jail Manual, when the warder peon goes away to take his food, etc., the keys of the wards are entrusted to the senior officer of the police guard. It is true that the rule goes on to provide that this officer shall not use the keys except on serious emergency, but the fact that they are in his possession must be held practically to place the prisoners in the sub-jail under his control. In the Bombay Presidency no warder exists, except in some headquarters sub-jails, and the keys of the subsidiary jail wards are admittedly left in the keeping of the police, who thus possess unrestricted access to the prisoners.

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Warder staff in Bengal.

537. The subsidiary jails in Bengal are supplied with a warder staff, generally comprising one head warder and five or six warders, who are deputed from the headquarters jail of the district. These men serve in the sub-jail for a period ranging from three months to a year and then return to the district jail, their place in the sub-jail being taken by fresh warders deputed from the district jail. The police are called in only in an emergency. This system is said to work well in Bengal, but we do not think it is practicable in Madras and Bombay, owing to the very large number of subsidiary jails and their scattered position. It may, however, be suitable for adoption in other Provinces where the number of sub-jails is small.

Warder staff in Madras and Bombay.

538. In Madras and Bombay we think that at least two warders should be provided at each subsidiary jail, in order that one man may always be present and may have possession of the keys of the wards. These warders may perhaps be peons borne on the establishment of the superintendent of the sub-jail, but may be given a small monthly allowance, say Rs. 3 each, in addition to their pay as peons, as an incentive to good and steady work in their capacity as warders of the sub-jails. In addition to holding the keys of the wards and being responsible that neither the police nor any other person has unauthorised communication with the prisoners, it should be the duty of the sub-jail warders to see to the correct supply and distribution of the prisoners' food and the cleanliness of the sub-jail cells, yard and premises. The police guard should have nothing to do with the jail economy. Their duties should be limited to guarding and giving assistance in case of refractory conduct on the part of the prisoners.

Other staff in subsidiary jails.

539. Beyond the warder staff and the standing guard furnished by the police, the ordinary subsidiary jail requires little further establishment. In some of the few large sub-jails a whole-time jailor may be required, but this is exceptional. The clerical work is usually done by one of the clerks on the superintendent's establishment, whether the superintendent is a sub-magistrate or a sub-divisional magistrate, and the medical charge is usually in the hands of the sub-assistant surgeon of the local dispensary. We see no reason to recommend any change in these arrangements. We have already referred in paragraph 499 to the need for engaging the services of some respectable woman to perform the duties of female warder, when female prisoners are confined in the sub-jail.

No convicts should in future serve their sentences in subsidiary jails.

540. In section IV of Chapter XV (paragraph 444) of this Report, we have recommended that sentences of imprisonment for less than twenty-eight days should be prohibited. If this is accepted, it will greatly reduce the number of convicts liable to serve their sentences in subsidiary jails, though the jail must still be retained for the confinement of prisoners undergoing trial. But it would be a considerable advantage to sub-jail administration, if it could be arranged

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that in future no convicts should serve their sentences in this class of institution. This would remove all difficulties regarding the separation of convicted from unconvicted persons. It would also render it unnecessary to make any provision for the exaction of labour. Assuming that in future no sentence of imprisonment will be for less than twenty-eight days, we recommend that no convicted prisoner should hereafter be retained in a subsidiary jail.

Subsidiary jails to be cellular.

541. If, in accordance with these recommendations, the population of subsidiary jails is, in future, almost entirely composed of prisoners undergoing trial, the accommodation to be hereafter provided should, in accordance with the proposal made in Section IV of Chapter XVII (paragraph 475), be entirely cellular in character, with perhaps one ward for use in case of a sudden rise of population. The cells to be provided should be constructed in accordance with Plan No. 4 or Plan No. 5 included in Appendix XIII to this Report. It is important also that the sub-jail cells should be placed in a small yard of their own and should not, as is often the case in Bombay and Madras, merely form one side of the *kacheri* enclosure. This arrangement is objectionable because it makes it very difficult to provide for the proper ventilation of the cells. It also makes it almost impossible to provide any privacy for females. We have prepared a plan (No. 6 in the plans in Appendix XIII) to indicate the arrangement which we recommend. This involves but little change from the plans followed in some Provinces, *e.g.*, Madras, but will not apply to sub-jails, such as those in Bengal, which consist of entirely separate and self-contained buildings.

Bathing and latrines.

542. In the yard in which the sub-jail cells are situated there should be adequate arrangements for bathing and, if possible, latrines. The practice of placing the general latrine *inside* one of the subsidiary jail wards, as we found in existence in the Poona Sub-Jail, is most objectionable, and should be prohibited. It was said to have been adopted at the instance of the police, who did not wish to have the responsibility of taking a prisoner out of the ward to an outside latrine. This is, in our opinion, an altogether insufficient reason for adopting a plan which was both insanitary in character and offensive in its effect. If a latrine is provided for night use in a subsidiary jail ward, it should be a cage latrine on the pattern shown as Plan No. 3 in Appendix XIII.

Suggestions as to improvement of subsidiary jail buildings.

543. It will, of course, be impossible in any Province to reconstruct all existing subsidiary jails on these lines. But they should, we think, be followed in all future construction. It may also be possible to improve the larger and more important sub-jails, especially those which depart most from the plan recommended. For instance, the 32 subsidiary jails named in the Note to Rule 1162 of the Bombay Jail Manual might, in that Presidency, be selected first for improvement. We fear that in a good many cases the buildings employed as subsidiary jails and lock-ups leave much to be desired and we think that the possibility of improvement should be considered in all Provinces.

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Visitors.

544. In Bengal, two non-official visitors are usually appointed to each subsidiary jail and this arrangement might, we think, with advantage be adopted in other Provinces in the case of the larger subsidiary jails, the appointment being made by the district magistrate. An inspection register should be provided and kept in the custody of the sub-jail warder on duty. In this, all visitors, official and non-official, should enter their remarks, and an extract should be sent as soon afterwards as possible to the district magistrate, in whose hands the general control and supervision of all the subsidiary jails in the district should remain.

CHAPTER XXI.

TRANSPORTATION AND THE ANDAMANS

Section I.—Review of the Existing Conditions in the Andamans.

Origin of the Penal Settlement at Port Blair.

545. The author of the original conception of an Indian penal settlement such as now exists in the Andaman Islands was Sir Stamford Raffles, who about the year 1787 first introduced Indian convicts into Sumatra to develop that island, then in British hands, and in 1825, on the rendition of Sumatra to the Dutch, transferred the convicts to the Straits Settlements to supplement the supply of free labour there. For about twenty-five years deportation of Indian prisoners to Singapore continued. The colony having by that time outgrown the need for this assistance, endeavours were made to find another place to which convicts could be deported from India and in the year 1858 the choice fell finally upon the Andamans, and the present settlement was opened at Port Blair.

Description of the Andaman Islands.

546. The land area of the Andaman Islands amounts to 2,508 square miles. The total number of islands exceeds two hundred, but there are only three which need be noticed here, namely, those known respectively as the Northern Andaman, the Middle Andaman and the Southern Andaman. Port Blair is situated on the east coast of the Southern island in latitude 11.41 north and longitude 92.45 east. Geologically the islands form a southward continuation of the Yoma range of Burma, and were separated from the mainland, probably by subsidence of the intervening area, in comparatively recent geological times. The aboriginal inhabitants, known as the Andamanese, are a negritoid race, speaking a language allied to some of the dialects in the Malay Peninsula. They are an extremely primitive people, representing the condition of mankind in the Stone Age. They have no metals and are even ignorant of the means of producing fire, so that when they move their camps the embers have to be carried from one camp to the next. Like all primitive races they are extremely susceptible to epidemic disease and an outbreak of measles in the seventies swept away nearly half the population. One section of the Andamanese, the Jarawas, are irreconcilably hostile and occasionally make an attack on the convicts working in the jungle, the general object of the attack being to obtain the iron contained in the prisoners' tools. The Andamanese use a formidable bow and arrow, which is an extremely lethal weapon at short range. There are no dangerous animals in the islands, but the wild pig, the wild cat and the iguana are hunted for food by the Andamanese. There are no rivers nor perennial streams. The highest hills are the Saddle Peak, 2,402 feet

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high, in the North Andaman, Mount Diavolo, 1,678 feet, in the Middle Andaman, and Koiob, 1,505 feet, in the South Andaman. The islands lie in the path of the south-west monsoon and there is in consequence a heavy rainfall especially in the months of May, June, July, August, September and October, the only dry months being January, February and March. The average rainfall for the year at Port Blair is 118.49 inches and the average number of wet days is 175. The maximum recorded temperature is 99.1 and the minimum 60.00; the mean temperature of the year is 82.1 and the percentage of humidity 85.00. On the whole the climate of the Andamans may be said to approximate to that of the Mergui Peninsula and to resemble not a little that of the Malabar Coast of India. The greater part of the islands is covered with virgin forest, an area of about 35 square miles round Port Blair having been cleared for the purposes of the settlement.

Causes of ill-success of the settlement:

(*i*) Malaria.

547. The original conception of a penal settlement, to which convicts from India could be sent and in which after undergoing a necessary period of penal labour they might be released and settled with their families as free citizens, was one of great potentialities. Unfortunately from various causes it has not been successfully carried out. In the first place the settlement at Port Blair proved to be highly malarious, and it is only in the last few years that the progress of medical knowledge has thrown light on the causes of this condition. It has now been ascertained with practical certitude that malarial infection is conveyed by a species of mosquito, *nyssomyæomya ludlowi,* which breeds in the salt swamps bordering the sea coast. Unfortunately this was not known to the founders of Port Blair, who naturally placed their settlement near the sea, unwitting that, in spite of the fresh and presumably health-giving sea breezes, the malaria-conveying mosquito would prove a cause of great and continuous sickness. The records of the settlement are full of references to the fever which prevailed from year to year, and this fever was necessarily very unfavourable to the success of a project for the colonisation of the islands from the convict population. The prisoners who survived and who were released were exhausted by malaria; their offspring suffered still more from the same cause; and there was a natural disinclination to remain in islands which were thus afflicted.

(*ii*) Absence of sufficient women.

548. Nor were any consistent measures taken in other directions to make the policy of colonisation a success. It is, we think, evident that in order that there should be a reasonable chance of the convict population becoming the nucleus of a decent community, it was essential that every prisoner, when released, should at any cost be provided with the necessaries of domestic existence. No expense should have been spared to induce the families of released convicts to join them in the Andamans. This might possibly have been brought about by liberal treatment, by the grant of free passages and by regular official propaganda. None of these things were done; on the contrary, the terms upon which the convict was released and allowed to start a free life were far from liberal; he was required to save money out of the pittance which

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he was granted in the intermediate stage before he became a self-supporter; free passages for the conveyance of his family to the Andamans were not granted; nor was any propaganda seriously attempted to induce the wives of the released convicts to join them in the islands. Instead of this course being followed, marriages, known as local marriages, were allowed to be contracted between self-supporting male convicts and female convicts who had served a certain number of years of their sentences in the Female Jail. These women were frequently too old for child-bearing. Apart from that, they were often of bad character, and unions between such women and released criminals were hardly likely to produce a respectable community. An even worse evil, however, was that the number of female convicts available for these local marriages was altogether inadequate. In the year 1918 there were only 233 female self-supporters as compared with 1,304 male self-supporters, or a proportion of one woman to six men. As might have been expected, the result of such a disproportion of the sexes has been wholesale immorality on the part of the women. It has been said that men often accept the position of self-supporter with a wife from the female prison in order to live upon her immoral earnings. As prisoners came to be finally released, a free population gradually grew up, but this population being mainly drawn from the convict class, was stamped with the same vices which characterised that class. In consequence the moral atmosphere of the settlement has been thoroughly unhealthy. No decent prisoner would wish to bring his wife and family to such a place, and accordingly any attempts which may have been made in recent years to induce released convicts to bring their wives and families to the settlement and so to relieve the social evils of the place could not be expected to succeed. On the contrary, every man who retain any sense of self-respect desires to get away and to take his relative with him. In the course of our visit we saw some of the self-supporters, men with young and growing families, who wished to return to India in order to give their children a chance of being brought up in healthier and more decent surroundings.

549. Nor is this the only reason why the original conception of a free community springing from the convict population has miscarried. For that idea to prove a success it was evidently essential that every possible form of reformative influence should be brought to bear upon the convict during the period of his sentence and that he should as far as possible be protected from contaminating influences. Unfortunately these considerations do not appear to have been present to the minds of those who controlled this experiment. It is not too much to say that absolutely no attempt whatever to provide any kind of reformative influence on the convict has ever been made. No education for convicts is provided and there are no religious teachers in the settlement. A definite rule has been laid down prohibiting convicts from erecting places of worship of any kind and (with trifling exceptions) from taking part in any joint religious observances, on the ground that disturbances might result. Nor is this all. No effective classification of prisoners has existed. Even the attempt to separate prisoners sentenced under section 75 of the Indian Penal Code has been very imperfectly carried out. Convicts of all descriptions, the more

(*iii*) Absence of reformatory influences.

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corrupt and the less corrupt, have, after a brief period of detention in the cellular jail, been placed in association in the convict stations of which there are twenty-four in the settlement of Port Blair. A station consists of one to three wooden barracks without any enclosing wall. In order to enable some control to be exercised over the prisoners when they are not actually locked up in these barracks, Colonel Douglas, the late Chief Commissioner, caused several of the stations to be enclosed within a wooden palisade. This is doubtless an improvement and prevents the prisoners from wandering about the country when not at work, and Colonel Douglas is entitled to credit for having devised it, but it is far from being a sufficient safeguard against the abuses which have long existed. Each barrack consists usually only of an upper storey raised about a dozen feet from the ground, and divided into two long dormitories, each containing one hundred or more prisoners. At night all prisoners are locked up in these dormitories without any supervision except that of convict officers. The stations being situated at various widely separated points about the settlement, it would be extremely difficult to exercise effective supervision over them unless each station were placed in charge of a thoroughly competent and trustworthy resident officer, supported by an adequate paid establishment. Unfortunately this has not been the case. In an Indian prison there is always a resident superintendent, and often a medical officer as well, for a jail containing from 750 to 1,500 prisoners. In the Andamans, however, these twenty-four stations, each containing several hundreds of prisoners, are without any resident officer. Of the 17 overseers in the settlement 8 are employed in connection with the stations and exact work by day; but at night there is no supervision except that of convict officers. No warder force exists. Thus there have been no influences likely to promote decency among the convicts or to check demoralising tendencies.

(iv) Unnatural vice.

550. The consequence of these conditions has been that unnatural practices have prevailed to a considerable extent. Given a large population of adult males, none of whom at the time of deportation can under the rules exceed forty years of age, and the fact that during the day gangs of prisoners are employed in the jungle under conditions which render supervision difficult, if not impossible, and that in the hours when work is over or on Sundays the prisoners enjoy a large amount of liberty, while at night they are locked up without any regard to classification in isolated barracks, practically free from supervision by any superior officer and controlled wholly by convict officers, it is not surprising that immoral practices have come into existence. The extent to which unnatural vice has existed is necessarily a good deal a matter of conjecture. Many authorities consider that these practices are restricted to a limited number of the population. The Pathans enjoy a bad pre-eminence as the active agents in the matter, while the Burman is generally reputed to be the passive agent. Other authorities believe that the practice is widespread and involves quite a large number of the prisoners. Whatever may be the truth on this point, the fact that unnatural vice does exist is not disputed by any one, and for many years there has been a special gang, known as "the habitual recipient gang," composed of men whose proclivities are beyond

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doubt. This gang is locked up in a special station provided with means for separating each of its members at night.

Resulting demoralisation of prisoners.

551. It is easy now to see why the original idea of a penal settlement has come to grief. The convict on or shortly after arrival was placed in a barrack, where he was liable to find himself brought into close communication with men corrupted by their experiences in the settlement or by the lives they had lived before their conviction. After living for some ten years in the society of such prisoners, deprived of all religious or other improving influences, guided and guarded almost entirely by convict officers, without even the inducement to reformation which is supplied by the remission system in Indian jails, it is not surprising that a convict, by the time he reached the stage at which he could become a self-supporter, had in a great proportion of cases become thoroughly demoralised. He was then released into a community in which there was not more than one woman to six men, and in which all the restraints supplied by the caste system were absent. He was still left without any moral guidance and without any of the domestic and family influences which to a large part of mankind supply some of the chief inducements to respectable conduct. The public opinion round him was thoroughly corrupt, and if by this time he retained any desire to live a moral life he received no assistance from the system of society in which he found himself. It was hardly to be expected that a population so trained and recruited could be fit for successful colonisation.

Evidence as to bad state of morals in Settlement.

552. The evidence as to the actual results of these causes is fairly complete. Half a century ago, in a letter dated the 8th November, 1870, the then superintendent of Port Blair reported on the necessity of providing a sufficient number of women if unnatural vice was to be prevented. In 1874, Sir Henry Norman, then superintendent of the settlement, laid great stress on the importance of there being a large proportion of marriages amongst the self-supporting semi-released convicts. Messrs. Lyall and Lethbridge, in their Report dated the 26th April, 1890, remarked that the provision of more women as wives to the self-supporters was one of the chief needs of the settlement and that the excessive disproportion of the sexes which then existed led directly or indirectly (by encouraging unnatural vice) to nearly all the murders and attempts at murders which occurred annually and to a large part of the other crimes. In 1897 the evil was still unremedied, for the number of self-supporters was 2,847 of whom women numbered only 363. In 1906 Mr. W. H. Merk, the Chief Commissioner, recorded the opinion that the state of immorality in the settlement was "horrifying." In 1914, Sir Reginald Craddock, wrote: "As to sexual morality the system directly encourages immorality. Except a few self-supporters no convict can marry.....The essence of the whole scheme of reform is that the prisoners should live a family life and the really important factor in the system is the introduction of the wives." The Government of India in September 1914 remarked that the history of the settlement provided ample demonstration of the fact that the moral standard of

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the community was incapable of improvement so long as the number of women bore so small a proportion to the number of men. In 1915 Colonel Douglas, the late Superintendent, remarked that in self-supporter villages the paucity of women was a factor mainly responsible for the prevailing crime. "In the Western district," he said, "hardly a single woman is reputable, and the state of the Eastern district is no better. An additional and still more sinister feature is that in the Eastern district especially, the evil is not confined to the women but has manifested itself in the form of unnatural vice in which the local boys are victims." In 1918 Colonel Douglas wrote: "A system which requires some 10,000 criminals to live in association in barracks cannot but result, without the closest supervision, in widespread immorality." In 1919 he observed: "In a settlement of this description the provision of women to adjust to some extent the relative proportion of the sexes is absolutely necessary." It is not necessary to quote further opinions on this subject in order to establish the fact that the present position of morality in the Andamans is bad, and that no reform would have any chance of being successful unless the introduction of an adequate proportion of women was assured.

Section II.—Proposals for the Future of the Settlement.

553. Accordingly the first question to which we gave our attention was whether it was not possible now to correct past mistakes and, by removing the difficulties which have hitherto prevented the presence of a sufficient number of women, to carry out, under better conditions, the original conception of a settlement of freed and reformed convicts. We considered first whether this could be done at Port Blair. The late Chief Commissioner, Colonel Douglas, took the view that the existing settlement there might be developed and continued as a reformatory system for the more decent class of prisoners, and we therefore examined carefully that hypothesis. We are quite convinced, as a result of our inquiries, that it is not practicable. The corrupted state of the free population, which we have referred to in paragraph 548, constitutes in our opinion an insuperable difficulty. No self-respecting prisoner would consent to bring his women into this polluted atmosphere, even if the women were ready to come and if their relatives would let them do so. We, therefore, decided that if any fresh attempt at colonisation was to be made, it must be in an entirely new locality.

Any fresh attempt at colonisation must be in a fresh locality.

554. The idea was then suggested that a fresh settlement might be opened in the Middle Andaman, where there is at present practically no free population, and where the Forest Department is engaged in exploiting the forest resources of the island. At first sight it seemed probable that the forest authorities would welcome the presence of a number of well-behaved released prisoners, with their families, who would be available for

Difficulties surrounding the idea of a fresh settlement in the Middle Andaman.

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employment in forest work. It soon appeared, however, that there were great difficulties in this scheme. The Forest Department would employ only such convicts as were suited by race or training for forest work. None of the prisoners drawn from the more open and settled parts of the country, such as Madras, Bombay and Bengal, would be suitable for the purpose, unless they belonged to regular jungle tribes. Settlers unsuited for forest employ would not be welcomed by the Forest Department and difficulties would probably arise in the conveyance of the supplies and products of such people to and from the coast by the forest tramway. Nor is it at all certain that, apart from forest employ, the settlers could make a living. The area of open land is limited and even when cleared and brought under cultivation, it must be very doubtful whether it would yield sufficient to support a colony wholly dependent on it. If the colonists kept cattle, difficulties regarding grazing would be extremely likely to occur with the Forest Department. It seems to us fairly certain that, for a long period, such a colony as here contemplated would have to be largely subsidised and assisted by the State and that it would probably prove extremely expensive. It would be necessary to arrange for more frequent communication with Port Blair than would be needed for labourers temporarily employed by the Forest Department. Medical and educational facilities would have to be provided. A magistrate and a police force would be required, and in fact the whole machinery of Government, though doubtless on a miniature scale, would have to be introduced. Even then there remains the question whether the wives of any class of prisoners could be induced to proceed to these islands in order there to join husbands from whom they had already been separated for a long term of years. We think that it is extremely doubtful whether they would do so.

Fresh settlement not recommended.

555. A further question arises as to whether there is any need for such a settlement as is here suggested. As regards the great majority of the convicts who are at present deported to the Andamans we think the question may be answered decidedly in the negative. We see no reason, as remarked below, why they should not serve their sentences in an Indian jail, and there can be hardly any doubt that, if it were desired to settle them on the land on the expiry of their term of imprisonment, it would be far better to do so in their own country, where they would come under the influence of the social and religious restraints of their own communities. There would certainly be some advantages in providing a permanent settlement in these islands for the more dangerous class of criminal whose deportation will, in accordance with our recommendation below, continue, but the difficulties of settling this class in the Middle Andaman would be very great. It would hardly be safe to release a considerable number of hereditary dacoits, professional poisoners or frontier fanatics in an island where there would be a very scanty police force and little means of repressing crime. In the absence of proper supervision a lawless population might grow up, which would cause serious embarrassment to the Government and be very likely to interfere with the supply of free labour for forest operations. If a new settlement were to be made in a new locality, it should, we think, be composed only of the best behaved and most favourable specimens of the convict community,

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but for these, as we have said, a settlement in the Andamans is unnecessary. On the whole, therefore, and after the most careful consideration, we have come to the conclusion that it is not advisable for the Government to incur the responsibilities and the expenditure that would be involved in the creation of a fresh penal colony.

Other alternatives.

556. Being thus compelled to abandon the idea of attempting to carry out, in a new locality, the original conception of a free settlement of released convicts, the alternatives which remain for consideration are as follows :—(*i*) the continuance of the present system at Port Blair with such improvements as experience has proved to be necessary ; (*ii*) the entire abandonment of the Andamans as a penal settlement and the retention in Indian jails of the whole of the criminals who are now transported to the Andamans ; and (*iii*) an intermediate course by which, while the Andamans are not entirely abandoned, the character of the system there would be radically changed. We propose now briefly to notice each of these alternatives.

Reasons against retention of present system. (*i*) Excessive size of the convict population.

557. The fundamental difficulty in the way of the retention of the present system in the Andamans lies in the enormous size of the convict population which is collected there and the varied and incongruous sources from which that population is drawn. The number of prisoners in the Andamans has risen as high as 14,000 and is now about 12,700. These criminals are drawn from every part of the Indian Empire. There are Pathans from the North-West Frontier Province and Nagas from the hills of Assam. The population receives contributions from Ceylon and Madras at one end of the chain and from Sind and the Punjab at the other. The settlement has, in fact, been used as a receptacle for criminals from all parts of India without regard for race, religion, or language. The difficulty of dealing with a heterogeneous collection of this sort is inherently very great. We incline to the opinion that such an admixture of races, castes and religions would never be likely to work well. On this ground alone we are disposed strongly to deprecate the continuance of the existing system.

(*ii*) Heavy expenditure on staff necessary.

558. If, however, it were decided to retain the Andamans on the present lines, there can be no doubt that very heavy additional expenditure would be necessary. We have laid down, at the commencement of our Report, that the maximum number of prisoners to be placed in charge of one superintendent should be 1,000, or at most 1,500. In order to apply this principle to the Andamans, with a population of from 12,000 to 14,000 men, less some 1,500 self-supporters, there should be, if the settlement is to be retained permanently on its present basis, not less than eight and preferably twelve, properly constructed, staffed and equipped jails, for each of which there should be a superintendent drawn from the Indian Medical Service, or an officer possessing equivalent qualifications. In view of the trying and unhealthy climate, and

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the heavy sick and mortality rates which have hitherto prevailed, it would certainly not be justifiable to make any less provision for the medical charge of these jails. In addition to this body of medical superintendents, there would have to be a thoroughly efficient establishment of jailors, deputy jailors and assistant jailors to carry on the executive and clerical work of the jails, and it would be necessary to add an effective warder force, which after making provision for leave and sickness could not be placed at a lower figure than 10 per cent. of the convict population, or about 1,200 men. In addition there would have to be an adequate subordinate medical staff, permanent buildings of approved pattern, and all the other necessaries of proper jail administration which, in the present settlement, are conspicuous by their absence. It will thus be evident that, in order to have any chance of success, a very large increase in expenditure on staff, buildings and other matters would be involved.

(*iii*) Extra expense involved in transportation.

559. There can, moreover, be no reasonable doubt that it must always be more expensive to transport a prisoner to the Andamans and to guard, feed, clothe and otherwise maintain him there than it would be to keep him in his own Province in India. All supplies have to be brought by sea from India and all officers have to be paid enhanced rates of wages to induce them to share with the prisoners the exile and monotony of life in these remote islands. Hitherto, the cost of the settlement has been kept down because no sufficient establishment has been provided and because the administration has been so largely carried on by means of convict officers. This has led to the evils which all unprejudiced observers agree now exist at Port Blair, and if a proper establishment is in future maintained, the cost per head, which has always normally much exceeded that of a prisoner in an Indian jail, will greatly increase.

(*iv*) Deportation of bulk of prisoners unnecessary.

560. We are not prepared to say that, if sufficient outlay were incurred, it would be impossible to convert the Andamans into a more or less satisfactory penal settlement, but the question for consideration is whether this outlay is necessary. We are not convinced that any sufficient reason exists to justify the undertaking of such large expenditure. The great majority of the prisoners who are deported to the Andamans do not belong to the worst or most dangerous class of Indian criminal. Out of the total population of 12,000 about two-thirds or 8,000 are persons who have been convicted of murder. The crime of murder in the absence of extenuating circumstances usually results in capital punishment, and when this sentence is not imposed, it is often the case that the offence is what is frequently referred to in penological literature as a "*crime passionel.*" The men who commit these crimes are often some of the least corrupted members of the prison population, and there is therefore no special reason why they should be selected for deportation to the Andamans. They might quite as well be retained to undergo their sentences in an Indian prison, and a circumstance which bears materially upon this point is the fact that, under present conditions, out of every hundred prisoners who are sentenced to transportation not more than fifty are actually deported to the Andamans,

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owing to the stringent rules which have been laid down in consequence of the labour requirements and health conditions of the settlement. It seems to us therefore that if half the prisoners who are now sentenced to transportation already remain in India, there can be no invincible reason why the other half, who at present are deported, should not, with some exceptions, the nature of which is noticed below, also remain in India.

(v) Loss of deterrent effect of transportation.

561. One argument in favour of deportation which bulked very large in the minds of those who dealt with this question half a century ago was the supposed deterrent effect which transportation over the sea would exercise. Experience has, however, proved that this deterrent effect, if it ever existed, has long since ceased to operate. It is a well known fact, which is borne out by the evidence of many witnesses before us, that prisoners under life sentences commonly request as a favour from the inspecting officers that they shall be sent away to the Andamans. The belief in the possibility of release as a self-supporter and in the possibility of obtaining after a brief time a wife and a hut has spread through the Indian prisons, so that prisoners who are sentenced to transportation and are not deported regard themselves as labouring under a peculiar hardship. Moreover the old prejudice against crossing the sea has largely disappeared. As Sir Reginald Craddock observed :—"The mere terror of crossing the *kala pani* is an exploded bogey."

(vi) Industrial value of settlement not a sufficient reason for retention.

562. It has been urged by some who advocate the retention of the penal settlement at the Andamans on existing lines that the islands possess many potential sources of wealth, which in the interests of India ought to be fully developed by the Government, and that convict labour is necessary for this purpose. Thus one enterprise which is thought to be specially promising is that of rubber planting. The climate and the soil of the Andamans are said to be well adapted to the growth of rubber and a successful beginning in this direction is thought to have lately been made. This industry might, it is considered, be largely extended and might prove a source of considerable profit to the State. Another promising line of development is believed to exist in the planting of cocoanuts. Owing to the high prices which were ruling for copra during the war, cocoanut planting has lately been a lucrative undertaking and a large number of trees have been put down in the Andamans by Colonel Douglas, the late Chief Commissioner, who was sanguine as to the prospects of profit from this source. The forest resources of the islands are being actively exploited by the Forest Department and are thought likely to yield a considerable return. It is suggested that the settlement in the Andamans thus represents a going concern likely to increase in value, which ought not lightly to be abandoned, and it is urged that due weight should be given to this factor when considering the question of the continuance of the deportation of convicts on the present scale to Port Blair. We do not think it necessary for us to examine in detail the claims thus put forward on behalf of the rubber and cocoanut industries at Port Blair. Both are special products, the price of which is liable to vary in accordance with world-wide conditions, and the question of the return to be expected from such undertakings involves numerous factors

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with which we hardly feel ourselves qualified to deal. Accepting, however, in full the statements made by the authorities of the Andamans, it does not appear to us that they furnish a sufficient reason for the continuance of the system of transportation on its present scale, if on other grounds that system is shown to be opposed to the welfare of the prisoners concerned. There can be no doubt that the employment of convicts in the cultivation of rubber and cocoanuts involves much exposure to weather and is otherwise hardly consistent with sound methods of prison administration. It necessitates the convicts being very much scattered, thus rendering supervision difficult and facilitating the continuance of some of the existing abuses noticed above. The heavy rainfall of the islands during the great part of the year is trying to the health of the prisoners, drawn, as they are, from all parts of India, including dry zones like those of Sind and the Punjab, and we doubt whether it is justifiable to expose such prisoners to these conditions, even though it were proved that the operations were financially successful. Moreover, the financial success of the undertakings involves an element of doubt. If they are as profitable as their advocates suggest, there should be no difficulty in making them pay under the same conditions as those which regulate similar enterprises in Burma, the Straits Settlements and the Dutch Colonies, that is, by the employment of free labour. If, on the other hand, convicts are needed in order to show profits, we think it is probable either that all the elements of cost in the supply of the convict labour are not taken into account or that the necessity of treating prisoners with due consideration has been lost sight of. Convict labour is notoriously less efficient than free labour and is, therefore, *prima facie* more expensive, nor does the absence of a wage-bill usually make up for this, when the cost of guarding maintenance, superintendence and capital outlay are all fairly allowed for. Moreover, in the case of the Andamans, this cost is enhanced by the expenditure involved in transporting to the islands not only the convicts themselves but their food, clothing and almost all the necessaries of life. Nor must the need for a large amount of medical attendance and for increased provision against sickness due to the prevalence of malaria be omitted. If these are not provided and if the prisoners are not adequately housed, fed and cared for, the industry on which the men are employed may pay, but the profits are obtained at the cost of the prisoners, who, being compulsorily detained in the settlement and forced to labour, do not possess the power which free labourers would have of protecting themselves by leaving the work and the islands. We should prefer to see these enterprises placed entirely on a business footing and run without any assistance from the convict population. In the case of forest exploitation this is now proposed to be done and the forest officials expressed themselves as in favour of the introduction of free labour and the entire withdrawal of convicts, as soon as the necessary arrangements can be made. Similarly, in the case of the rubber and cocoanut plantations we see no reason why free labour should not be attracted from India or Burma, if suitable terms are offered. If it is thought advisable, the rubber and cocoanut plantations might be retained under the control of the Chief Commissioner and worked in the same way as the Forest Department, subject to his general control, is exploiting the timber supplies of the Middle and Northern Andamans. An alternative plan would be to grant a lease of those portions of the settlement at Port Blair which are suitable for

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cocoanut and rubber to a private company who would then make their own arrangements in regard to the supply of labour and all other matters. We are strongly of opinion that the future of the Andamans as a penal institution should not be decided on the basis of the actual or potential value of the islands as a commercial or industrial proposition.

Retention on present lines not recommended.

563. After taking due account of all the above considerations, we have come to the conclusion that the retention of transportation to the Andamans on the present scale, even if an increased and improved, and consequently vastly more expensive, staff were provided, is undesirable and should not be attempted. The *raison d'etre* of a system of transportation to a great extent disappears if the idea of colonisation, which we have dealt with above and rejected, is found impracticable. As deportation to the Andamans has lost its deterrent effect, as it involves increased cost, as it exposes the prisoner to depressing climatic conditions, and as in the case of the average prisoner it is not needed from the administrative point of view, we fail to see what necessity there is for its continuance in respect of the great majority of the prisoners who are now sent there.

Reasons in favour of entire abandonment of the settlement.

564. The second alternative for consideration is that of entire abandonment of the islands as a place of deportation. Arguments in favour of this view are :—(*i*) that as already noticed transportation no longer produces the terror it was once supposed to inspire ; (*ii*) that, as we have already shown, it must be more expensive to maintain a convict there than in an Indian prison ; (*iii*) that the removal of a prisoner far from his home and the almost complete severance which this involves of all ties with friends and relations is demoralising and undesirable ; (*iv*) that it is difficult to supply those reformatory influences which we have recommended for all Indian prisons, such as the attendance of religious teachers, the provision of education and the attempts in other ways to fit the prisoner for eventual release ; (*v*) that in the absence of any large free population there would be no educated public opinion to restrain the prison authorities or to see that the reforms so undoubtedly necessary in the settlement are properly carried out ; and (*vi*) that the climatic conditions will always be unfavourable to the health of the convicts, drawn, as they are, from various parts of India. On these grounds it is argued that the settlement should be entirely abandoned and that the exploitation of the islands should be made over wholly to private enterprise.

Reasons against entire abandonment.

565. We are in sympathy with many of the arguments here brought forward, and as indicated by the remarks made in dealing with the first alternative, we are prepared to go a very long way in the direction of the abandonment of the Andaman Islands as a special place of criminal detention. But we cannot shut our eyes to the fact that there are and must always exist in all Indian Provinces, though more in some than in others, a certain number of prisoners whose removal to a place of secure custody outside the continent of India is extremely desirable. An instance of the class of prisoners here referred to is, in the first

place, the frontier fanatic who has been guilty of a murderous outrage, for which instead of being hanged he has been sentenced to imprisonment for life. Prisoners of this description are at present confined in various prisons in Sind, Bombay, the United Provinces and elsewhere, where they are kept in cells by day and night throughout the term of their confinement. It would be a great advantage to the Provinces concerned if these men could be removed in all cases to a place of entire security outside India such as the Andaman Islands, and the prisoners themselves would probably benefit by the relaxation of the severity of treatment which is necessary in India but which could be dispensed with at Port Blair. In the second place there exists, especially in the northern Provinces, a large number of really desperate dacoits who are a source of danger to the security of life and property in the localities to which they belong. It is to the retention of these prisoners in Indian jails that we attribute some of the misuse of fetters and other means of restraint which we noticed in those Provinces. In the interests of the community such specially dangerous prisoners should not be kept in the prisons of the Province, where their reputations are known and where escape is always possible, but should be removed to a place like Port Blair, from which escape to India may be said to be out of the question. There are a few other classes of prisoners whose removal is similarly desirable, and we think that it would impose a serious additional difficulty on the criminal administration of many Provinces if, as this alternative proposes, the Andamans were to be entirely closed and if no criminal were in any circumstances to be hereafter deported thither.

Alternative recommended for adoption.

566. For these reasons we have come to the conclusion that the second alternative should also be rejected, and the solution of this important and difficult question which we advocate is the retention of the Andamans as a place of deportation, not for the great mass of the prisoners who now go there but for a small class of selected prisoners whose removal from British India is considered by the Government concerned to be in the public interest. Our recommendation accordingly is that deportation to the Andamans should cease except in regard to such prisoners as the Governor General in Council may, by special or general order, direct. Eventually the population will be reduced to this small body of specially dangerous criminals who will then be confined only in the healthier localities where the Cellular and Associated Jails are placed. With the reclamation of the remaining salt-marshes in that locality, as advocated below (paragraph 604), the malaria-carrying mosquito will disappear and malaria will practically be prevented. Moreover, the prisoners will cease to be employed in the more unhealthy forms of labour which now are responsible for so much sickness and mortality. There is reason to expect, therefore, that when these changes have been effected, deportation to the Andamans will involve no greater risk of sickness than confinement in an Indian jail. It is difficult to form any accurate estimate as to the number of prisoners who under this plan would continue to be thus deported. We consider that no female should in future be sent to the Andamans (see paragraph 572 below) and therefore the female prison there will be available for the special class of convict whose future deportation we contemplate. The accommodation in the Cellular Prison and the adjoining Associated Prison, together with the Female Prison, appears to

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be sufficient for about 1,500 men, and this accommodation would probably be enough for the purposes we have in view. It is, however, difficult to foresee the future and we recognise that further developments must to some extent be dependent on the results of experience of the changes we recommend.

Restrictions in respect of age and physical condition to be abolished.

567. If deportation is limited to a class to be specially selected for the purpose, it seems obvious that the existing restrictions relating to the age and physical condition of prisoners sentenced to transportation would cease to apply. Every prisoner whose removal from India to the Andamans is declared by the Government to be in the public interests should be deported, irrespective of age or health, unless there existed in any particular case any special medical grounds which would render the Andamans unsuitable for the prisoner's residence. Thus cases of tubercle and chronic rheumatism or prisoners suffering from cachectic conditions would naturally not be sent to a climate such as that of Port Blair.

Amendment of Indian Penal Code recommended.

568. In order to carry out the idea of removing from Indian prisons all really dangerous men, it seems clear that deportation to Port Blair should take place in the case of any prisoner whose removal is in the opinion of Government desirable, whether he has been sentenced to transportation or to rigorous imprisonment. The Government of India already possess, under sections 29 and 32 of the Prisoners' Act, 1900, power to order such removal and no legislation is in this respect necessary. We think, however, that it is desirable to amend the Indian Penal Code by the removal from it of all references to transportation and by the substitution throughout of rigorous imprisonment. It seems to us that there is something anomalous even in the present position under which some fifty per cent. of the prisoners sentenced by the courts to transportation are, in fact, not deported to the Andamans but serve their sentences in a jail in their own Province. This anomaly will be considerably increased, if, as we propose, a prisoner, although sentenced to transportation, is not actually deported to the Andamans except under special orders of Government and on special grounds. Moreover, if the distinction between transportation and rigorous imprisonment which the Indian Penal Code contemplates is maintained, objection might not unreasonably be taken to a prisoner who has been sentenced by a court to rigorous imprisonment being deported to Port Blair on the ground of his being specially dangerous, even though the terms of the Prisoners' Act render such a step legally possible. There seems to be no special advantage in substituting penal servitude for transportation, as has been sometimes suggested, and it would probably be most convenient that all sentences under the Indian Penal Code other than those of death, forfeiture and fine, should be sentences either of rigorous or of simple imprisonment.

Establishment and accommodation eventually necessary.

569. The Cellular and Associated Jails, in which, under our proposals, the prisoners selected for transportation will hereafter be confined, will have to be provided with such establishment as would be required for similar jails in India.

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We deal with this question in Section III and will, therefore, not refer to it further here. The reforms necessary in the interval before the restriction of deportation to this limited class becomes effective are dealt with in Section IV of this Chapter.

Effect of proposals on jail population in India.

570. If transportation to the Andamans is restricted to special selected prisoners, all persons hereafter sentenced to transportation except those thus specially selected will in future serve their sentences in Indian jails. In some Provinces, as, for instance, Madras, it may be possible to give immediate effect to our recommendation and to stop at once all further deportation (except that of selected prisoners) as the small increment which will accrue can be provided for in the jail accommodation already available. We fear that in the present state of jail accommodation this will not be possible in all Provinces. For instance in Bombay, the Punjab and Bengal the existing jail accommodation is already overcrowded and although we confidently anticipate that the adoption of other recommendations which we have made in this Report, and especially those relating to probation and the Revising Board, will have a material effect in reducing the number of prisoners admitted to and detained in Indian jails, yet it must for a long time be uncertain what the extent of that effect will be, and therefore it cannot at present be said that accommodation will be immediately available in Indian prisons for those prisoners who have hitherto been deported to the Andamans and who will in future serve their sentences in India. The following table shows the number of prisoners annually transported to the Andamans and this will give an approximate indication of the annual increment to the present jail population of India in each Province which the adoption of our recommendations may be expected to provide, due allowance being made for such deportation of selected prisoners as will still continue :—

Province.	Number transported :—				Total for 13 years ending 1918.	Average per annum.
	Ten years ending 1915.	1916.	1917.	1918.		
Madras	880	105	126	154	1,265	97.3
Bombay	1,017	136	175	149	1,477	113.6
Bengal	1,038	107	87	87	1,310	100.8
The United Provinces	2,029	301	198	219	2,747	211.3
The Punjab	1,033	193	181	101	1,508	116.0
Burma	2,256	274	213	299	3,042	234.0
Bihar and Orissa	621	75	43	21	760	58.5
The Central Provinces	533	137	171	106	947	72.8
Assam	168	25	10	4	207	15.9
The North-West Frontier Province	383	54	77	66	580	44.6

Selection of prisoners for retention in Indian jails in intermediate period.

571. In those Provinces in which deportation on the present lines cannot at once cease, some criterion will be needed by which to decide which prisoners should be deported and which should, if possible, be kept in Indian jails. We accordingly suggest that in determining as to the prisoners who

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should or should not go to Port Blair, the first class to be detained in India should be those who, under the classification suggested in Chapter VI of this Report, would be ordinarily included in the Star class, while the last class of prisoners to be kept in India would be the habitual convicts. It will doubtless be understood that in selecting convicts for deportation the fact that a prisoner is a dangerous character will be a predominant consideration.

Female prisoners to be brought back to India.

572. In no Province, we believe, is jail accommodation available sufficient to enable the general body of prisoners who are now in the Andamans to be brought back from there to India, and therefore the reduction of the population in the islands can occur only gradually as releases take place. One exception may be made, *viz.*, as regards female prisoners other than self-supporters. Their number is so small (242 on the date of our visit) that we think that not only may further deportation of females be immediately stopped, but also that the women who are now in the Female Jail at Port Blair may be brought back to India and distributed among the Provinces to which they belong.

Increased accommodation to be provided in India.

573. In Provinces where jail accommodation is insufficient to enable prisoners now deported to the Andamans to be detained in India it will be necessary for the local Governments concerned to undertake without delay the provision of additional prisons or extensions to the existing prisons. This is a process which must necessarily be spread over a number of years.

Section III.—Reforms required in the Cellular and Associated Prisons.

Reforms immediately necessary in Cellular and Associated Prisons.

574. We proceed now to deal with those reforms in the Cellular and other Jails, which not only are immediately necessary but which will continue to be required even when the final stage contemplated in our proposals is reached.

Present position of the Cellular, Associated and Female Prisons.

575. Before the convict deported to Port Blair is drafted to one of the 24 convict stations described in paragraph 549 above, he undergoes a period of detention ranging from a minimum of six months to two years in the Cellular Prison, which was built a few years ago. The accommodation in this prison is sufficient for about 800 prisoners and the number in confinement there on the date of our visit was 812. Adjoining the Cellular Prison is what is known as the Associated Jail, which consists of six association barracks with accommodation for about 500 prisoners. This is used as a quarantine yard for the Cellular Prison and also for the confinement of juveniles, prisoners newly

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landed, prisoners locally convicted, and any prisoners for whom there is no accommodation in the Cellular Prison. A short distance from the Cellular and Associated Prisons is the Female Prison. This also is on the association principle and women convicts spend the whole of their sentence in this Prison, unless they are released as self-supporters. If the recommendation in paragraph 572 is accepted and all female convicts in the Andamans, except self-supporters, are sent back to India to complete their sentences in Indian jails, the female prison will cease to be required for its present purpose, its establishment can be paid off, and its buildings will be available to supplement the accommodation in the Cellular and Associated Jails.

Staff of the Cellular and Associated Prisons.

576. The Cellular and Associated Jails, as well as the Female Jail, are under the superintendence of an officer of the Indian Medical Service known as the medical superintendent. The remaining paid staff is common to the two first named prisons and is as follows :—1 Overseer, 2 Assistant overseers, 5 European military warders, 1 Sub-assistant surgeon, 1 Chief head warder, 2 Head warders, and 8 Warders. In addition to this paid staff there are 117 convict officers in the Cellular Jail and a varying number of convict officers in the Associated Jail. There is also an armed police guard of 1 havildar and 13 men outside the main gate of the Cellular Jail and 2 police watchmen on the roof of the central tower.

Duties imposed on medical superintendent.

577. The medical superintendent of the Cellular Jail, besides having the superintendence of the adjoining Associated Jail and of the Female Jail was, at the time of our visit, also performing the duties of senior medical officer and civil surgeon of the station. He was thus responsible for the control and supervision of the four out-hospitals in the Settlement, namely, those at Bamboo Flat, Haddo, Viper Island and Middle Point, besides being expected to look after the needs of the European staff and their families, and to supervise the hospital which serves the free population of the islands. We are strongly of opinion that the task thus imposed upon the medical superintendent is beyond the powers of any one man to perform and we regard it as essential that the superintendent of the Cellular and connected Jails should be relieved of all extraneous duties and should be enabled to devote his entire attention as a whole-time superintendent to those jails. A separate officer should be posted as soon as possible to carry on the duties of senior medical officer of the settlement.

Subordinate medical staff of the Cellular and Associated Prisons.

578. The sanctioned establishment of medical subordinates in the Cellular and Associated Jails is also very inadequate. As above stated, it consists at present of a single sub-assistant surgeon who is expected not merely to attend to the sick in the hospital but also to carry out the important duties connected with the medical and sanitary work of both jails, such as the selection of prisoners for labour, the inspection of prisoners' food and the supervision of the sanitary conditions of the prison. The medical superintendent, owing to

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the pressure of other duties above noticed, was unable at the time of our visit to go to the Cellular and Associated Jails more than three times a week, so that in practice a great part of the medical administration of these jails fell on the single sub-assistant surgeon. In every central jail in India there are at least two sub-assistant surgeons and we consider that, even when the medical superintendent is relieved of all extraneous duties and is able to devote his whole time to the Cellular and Associated Jails (with the Female Jail) it will be necessary that two sub-assistant surgeons shall be provided for the sub-medical charge of these prisons. Until the medical superintendent is relieved of the extraneous duties which we have referred to above and a separate senior medical officer appointed, an assistant surgeon should be at once attached to the Cellular and Associated Jails in addition to the two sub-assistant surgeons.

Clerical staff of the Cellular and Associated Prisons.

579. The number of executive and clerical officers provided in the Cellular and Associated Jails is also insufficient to deal properly with the population there received. There should be a jailor, a deputy jailor and four assistant jailors to carry on the executive and clerical work of these jails and we recommend that the establishment should at once be revised accordingly.

Warder staff of the Cellular and Associated Prisons.

580. The warder staff is even more inadequate than the jailor staff. Taking the population of the two jails at 1,300, we consider that there should be not less than 130 warders and head warders. The fact that the present establishment consists of 8 warders and two head warders shows the serious extent to which these prisons are undermanned and indicates to what an undue extent reliance is placed on convict officers. If, as we recommend, the strength of jail warders is raised to ten per cent. of the jail population, the number of convict officers should be materially reduced on the same lines as we have recommended in Chapter VI of this Report.

Manufacturing department of the Cellular Prison.

581. The development of manufactures in the Cellular Prison seemed to us to leave a good deal to be desired, but this is hardly to be wondered at in view of the inadequacy of the staff. We consider that there should be a properly trained foreman in charge of the manufacturing operations. At present the intramural labour of the convicts is mainly concerned with the manufacture of coir fibre. We are inclined to think that, if a properly qualified foreman were obtained, it would be possible to introduce machinery which would render the jail labour available for other purposes. As the population of the settlement is diminished in accordance with our proposals, manufactures which are now carried on at Viper Island, Haddo and elsewhere might be introduced into the Jail, thus concentrating in the prison work which is now spread over the settlement.

Jail hospital of the Cellular Prison.

582. The hospital of the Cellular Jail consists of a single room which is not adequate for the purpose for which it is intended. It is insufficient for the

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average number of sick and being only a single long barrack it is impossible to provide for the separation of surgical from medical cases, or for the segregation of such diseases as dysentery and phthisis or septic or infectious cases. At present patients whom it is desired to separate from the main body of the sick have to be kept in ordinary jail cells. These cells do not allow of adequate ventilation, supervision or nursing. There is no operating room and operations have to be performed in the verandah. The hospital is not provided with bed-side tables nor is there any place where bad cases can be screened off from the rest of the ward. The whole hospital arrangements appeared to us to be extremely primitive and to need substantial improvement.

Sickness in the Cellular and Associated Prisons.

583. There has been a considerable amount of sickness in the Cellular and Associated Jails as the following figures show :—

Average sick rate per mille of strength.

Year	Cellular Prison.	Associated Prison.
1917	44.66	61.77
1918	52.93	52.93

In view of this large amount of illness we think it is very necessary that special attention should be paid to the weighment of prisoners. We learnt that no statement showing the general results of weighments is prepared and submitted at present for the information of the medical superintendent. In view of the heavy burden of work resting upon the prison staff this omission can readily be understood, but with an increased staff we certainly think that the regular preparation of a weighment statement is desirable.

Other reforms required in the Cellular and Associated Prisons.

584. It is hardly necessary for us to refer in detail to the other respects in which the Cellular and Associated Prisons at Port Blair fall below the standard already attained or recommended for adoption in Indian central jails. Speaking generally, we think that as, in accordance with our recommendations, these prisons will have to be retained permanently, their administration should be brought up to the level of an Indian prison and that the recommendations in other Chapters of this Report should be applied *mutatis mutandis* to them. In particular, the recommendations regarding the classification of convicts, which are contained in Chapter VII of the Report, the remarks as to prison discipline in Chapter X and the rules regulating gratuities, interviews and letters, and other matters dealt with in Chapter XI should as far as possible be here applied.

Remission, revision of sentences and eligibility for eventual release.

585. We see no sufficient reason why the remission system and the procedure for the revision of sentences by the Revising Board as proposed in Chapter XVI of our Report should not also apply to these prisoners. In many cases the reasons which rendered them specially dangerous at the time of their conviction may have since disappeared and it would be invidious, by an executive deci-

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sion, to exclude them from the advantages allowed to other prisoners. But in a good many cases the local authorities in India may object to the return of these convicts until the expiry of their sentences, and in the case of life convicts this may result in their permanent retention at the Andamans. It will then be necessary to decide how they are to be treated when they have completed such portion of their sentence as is equivalent to that which would ordinarily secure their release. We think that at this stage, if the man has a wife who is willing to join him at Port Blair, the Government should defray the expense of her journey to the islands and that the prisoner should be allowed to live with her in a hut, much in the same way as is now done in the case of self-supporters. If the man has no wife, or if she refuses to come to the Andamans to join him, we think that in most cases it will be best that he should continue to reside in one of the prisons, being allowed, however, if he is of good character, to take up outside employment and being merely required to return at night. In the case of steady men, they might be permitted to take up domestic or other service and to live outside altogether. We would deprecate, however, any such extension of the grant of these privileges as would involve the practical revival or continuance of the self-supporter system. It must also be realised that cases may occur, as for instance that of a frontier fanatic, to which it may be altogether impossible to extend these privileges.

Provision of a library in the Cellular Prison.

586. A library should be provided in these prisons with an adequate supply of books in the various vernaculars of India. Some books already exist but we understood that they had mainly been contributed by friends of prisoners and were therefore not available for general use. If the friends of prisoners wish hereafter to contribute books, it should, we think, be a condition of acceptance of the gift that the books should be available for the use of all prisoners in the jail. We noticed that there were no books in any South Indian vernacular. This deficiency might be made good.

Section IV.—Reforms required in the Andamans outside the Cellular and Associated Prisons.

Proposals relating to intermediate stage.

587. We turn now to those reforms which are, we think, necessary in the administration of the Andamans outside the Cellular and Associated Prisons. If transportation is gradually reduced to the limits suggested in paragraph 566, the number of prisoners in convict stations will gradually diminish, until finally none are left. Thus the questions dealt with in this Section apply to the intermediate period which must intervene before the final arrangements which we contemplate can be reached. But it will take some years to provide sufficient accommodation in all Provinces of India to enable transportation to be restricted as proposed in

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paragraph 566. The reforms now to be noticed are therefore of great practical importance in the interests of the prisoners now in the islands and of those to be sent there in the next few years.

Period to be spent in the Cellular Prison.

588. We see no reason to interfere with the procedure now followed under which a prisoner, on first arrival, spends an initial period in the Cellular Prison. This plan has the advantage of enabling the prisoners to become to some extent acclimatised before being sent out to extra-mural labour. But it should be clearly recognised that first claim on the accommodation in the Cellular Prison will be on account of the specially selected prisoners, and that ordinary prisoners can only continue to be detained there when room is available. No specially selected prisoner should as a rule be removed from the Cellular and Associated Jails to a convict station.

Number of stations to be reduced to six, which should be regular temporary jails.

539. On completion of the preliminary period of confinement in the Cellular Prison, the convict is drafted out into one of the 24 convict stations described in paragraph 549. It is evidently necessary that steps should at once be taken to provide proper supervision over these convict stations. With this object the first step seems to us to be to reduce the number of stations, concentrating the prisoners in a small number of properly arranged temporary jails. The points chosen for these concentration stations or temporary jails should be selected as far as possible with a view to their being free from malaria and therefore comparatively healthy. The total number of prisoners in the Andamans being about 12,500 and about 1,500 being accommodated in the Cellular and Associated Jails (with the Female jail), while 1,500 more are self-supporters, there remains a population of about 9,500 to be dealt with in the concentration stations or temporary jails. This number will gradually diminish as transportation to the Andamans is reduced. We think it should be possible to distribute these 9,500 prisoners in six concentration stations, each holding a little over 1,500 men. As the buildings would be of wood, which is obtainable in unlimited quantities locally, and as they would be built by convict labour, the cost of construction would be small. A similar remark applies to the quarters needed for the staff.

Superintendence of concentration stations or temporary jails.

590. It is, in our opinion essential that a resident superintendent should be appointed for charge of each of these six stations. The existing five appointments of assistants to the Chief Commissioner will perhaps supply five out of these six superintendents and a sixth should be added for the sixth station or temporary jail.

Superior staff of concentration stations or temporary jails.

591. Each temporary jail should also be supplied with a staff similar to that provided for a jail in India, namely, a jailor, a deputy jailor and one or more assistant jailors. It will, on the

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other hand, be possible considerably to reduce the number of overseers, and suitable members of that staff can be absorbed in the proposed jailor establishment.

Recruitment of superior staff.

592. The question has been raised as to whether officers of these grades should be entertained independently by the Andamans administration or whether they should be obtained on deputation from provincial establishments in India. The fact that under our proposals the population of the settlement will be gradually diminishing and that the staff employed to control it will be from time to time reduced, seems to supply a strong reason for avoiding independent recruitment. Moreover, experience has shown that men who remain in the Andamans for unlimited periods and who have nothing to look forward to except a continuance of service there are apt to lose their keenness and energy. The climate is enervating and the life of a small community such as that of Port Blair presents few invigorating features. The officers employed there get out of touch with administrative progress in India and are liable to stagnate. For these reasons we are in favour of the plan of recruiting the officials required for the superior staff of Port Blair by deputation from provincial cadres in India.

Requests by members of overseer staff.

593. Certain requests were placed before us by the existing members of the staff of overseers. The first of these was that their official title should be altered from "overseer" to "jailor." This will be given effect to if our proposals are carried out. In the second place they asked that they should be placed on a time-scale rising from Rs. 130 to Rs. 400 per mensem. We are not in favour of the adoption of a time-scale, but we think that the pay of the jailors and deputy jailors should not be less than that which we have recommended in paragraphs 52 and 55 of this Report for adoption in Indian jails, and this will substantially comply with the overseers' request in this respect. Lastly they asked that they should be given free passages for themselves and their families to India and back once in three years. This seems to us a most reasonable concession and we strongly recommend that it should be granted.

Subordinate staff for concentration stations or temporary jails.

594. Some provision must also, we think, be made for a subordinate staff for the concentration stations, for the existing practice of leaving them in the hands of convict officers cannot be defended and ought not to continue. Authorities are largely agreed that many of the existing abuses of the Andamans are due to the absence of a proper staff and proper supervision. The distance from India renders it by no means easy to secure candidates even for the existing police force. We think, therefore, that it will be wiser to be content with fewer men on higher pay and so to attract a better class to serve in these temporary jails. Accordingly we suggest a force of 40 warders and 8 head warders for each concentration station, the pay of the warders being fixed at Rs. 25 rising to Rs. 50, and that of the head warders at Rs. 75 rising to Rs. 100.

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These numbers are the absolute minimum with which any real measure of control and discipline could be enforced in the out-station. They can be reduced as the convict population falls. We think that the Chief Commissioner should be asked to say whether, if this warder staff is provided, any reduction in the police force is practicable.

High death rate of the Settlement in the past.

595. It is impossible to overlook the fact that the health of the prisoners in the settlement has been consistently bad. Mr. Merk pointed out in 1904 that at the then rate of mortality, only some 340 life convicts out of 1,000 survived at the end of twenty years. Surgeon-general Lukis, writing in 1913, observed :— "Decennial periods show not only that the death rate is very high but that there are no indications of improvement." Nor do the figures for later years greatly qualify this, though the results in those years have been to some extent obscured by the prevalence of influenza. The following are the death rates among the whole body of convicts in the settlement for the ten years ending 1919, the mortality rates among self-supporters and police being added for comparison:—

Year.	Convicts.	Self-Supporters.	Police.	Year.	Convicts.	Self-Supporters.	Police.
1910 . .	44.51	18.08	7.15	1915 . .	47.28	30.64	10.64
1911 . .	26.28	15.85	8.85	1916 . .	36.66	20.82	10.64
1912 . .	34.20	18.49	2.94	1917 . .	36.68	19.30	13.80
1913 . .	26.77	17.33	not available.	1918 . .	50.08	31.15	20.44
				1919 . .	46.73	24.39	14.33
1914 . .	26.38	12.36	6.98	Average .	37.65	20.84	9.57

The striking difference between the death rates prevailing among convicts and those of self-supporters is noteworthy. In regard to the police death rate it should be pointed out that members of the force contracting serious illness are invalided and return to India, thus keeping down the mortality rate.

Existing medical arrangements.

596. The existing arrangements for medical relief of the 12,000 convicts outside the Cellular and Associated Jails consist of four hospitals at Bamboo Flat, Middle Point, Haddo and Viper Island, each in charge of an assistant surgeon with two sub-assistant surgeons. We cannot say that we were favourably impressed with the condition of such of these hospitals as we visited. The hospital at Bamboo Flat may be taken as an example. It consists of several two-storeyed buildings without an enclosure of any kind. The lower storey in each case has no walls, shelter from the weather in the wet season, which lasts for nine months of the year, being afforded by means of tatty screens. Judging from what we know of monsoon conditions on the West Coast of India, such an arrangement must be very inadequate. The upper storeys are better protected from the weather but the pervious floors make them very draughty and this must be trying to the sick in the monsoon months. There are six blocks as above described and an additional one has been recently built which differs only in the fact that the ground floor is stone-paved. The hospital equipment seemed to us to be very inadequate. There were no

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mattresses for the sick. The hospital tickets in use consisted of pieces of paper about two inches square on the back of which the names of the prisoners were recorded in pencil. There were no covered ways between the blocks and the operation room was badly lighted. It seemed to us that the general condition of this hospital was very unsatisfactory and stood greatly in need of improvement. We are of opinion that increased supervision over these four hospitals is very greatly needed, and we recommend the appointment of a medical officer of commissioned rank with no other duty than the direct control of these hospitals.

Pay and allowances of medical staff of existing out-hospitals.

597. It was represented to us that the allowances granted to the medical staff employed in these out-hospitals were insufficient to attract good men. There is no possibility of private practice and the life is an isolated one, involving the risk of contracting malaria. If suitable men are to be retained in these remote hospitals and induced to do good work, it is necessary that the allowances attached to the posts should be liberal.

Early removal of phthisis cases recommended.

598. There are various other matters bearing on the health of the prisoners in the settlement to which we think attention should be drawn. In view of the fact that the climate of the Andamans is generally unsuitable for patients suffering from phthisis, we recommend that when this disease is found to exist, early steps should be taken for the removal of the prisoner from the settlement to a more suitable climate in India. It should be specially borne in mind that such removal, if it is to be beneficial, ought to be carried out at an *early* stage of the disease.

Periodical weighments of convicts to be introduced.

599. We consider that it is highly desirable that every prisoner in the temporary jails or concentration stations should be periodically weighed and that a record of the weighments should be maintained and examined. At present none of the prisoners outside the Cellular Jail are weighed except when they fall sick and are brought into hospital. The object of periodical weighment is to detect failing health before it has led to an actual break-down or definite disease. To postpone weighment until the man is already ill obviously defeats that object. If the prisoners are concentrated in a small number of stations, as recommended above, the difficulty of periodical weighment will to a great extent disappear.

Better provision to be made for avoidance of wet clothes.

600. One of the difficulties resulting from the climate and heavy rainfall of the Andamans and from the fact that so large a number of the convicts are employed on extra-mural labour lies in the provision of dry clothing for the men when they come back to their barracks at night. A prisoner is at present given three suits. One is always at the wash, leaving two for practical use. Of these one is supposed to be available when the man returns from work, but in the absence of any drying apparatus and in consequence of the high percentage of

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humidity which exists during the rains it frequently happens that both suits are wet, and thus the convict is forced to remain in or put on wet clothes. We have little doubt that this has a considerable effect in the production of disease. The provision of dry clothing is a matter of considerable importance from the health point of view, and we suggest that some efficient means of ensuring that every man has a dry suit to change into should be adopted, either by the provision of steam drying apparatus which dries the clothing by the circulation of hot air, or by the issue of water-proof capes or blanket hoods or leaf umbrellas for the use of the men at labour, or by providing them with a sufficient number of extra suits of clothing.

Cooking and distribution of food to be better controlled.

601. We were not at all satisfied that the arrangements for the cooking and distribution of rations in the convict stations are at present under sufficient or satisfactory control. Owing to the absence of an adequate staff very little supervision over the food is exercised by responsible officers; in fact, rule 244 of the Andamans Manual seems actually to countenance the view that the distribution of food is to be supervised by a convict officer. When the concentration of stations and the provision of increased staff which we recommend are carried out, this evil should disappear, and the cooking and distribution of food at each temporary or concentration station should be brought under the supervision of the paid staff.

Early morning meal to be issued every day.

602. Under rule 238(c) of the Andamans Manual the issue of "*kanji*" before parade is to be made only on working days. In all Indian jails the issue of an early morning ration is made not only on working days but also on Sundays and holidays, and it is undesirable that prisoners should be deprived on those days of their accustomed early morning meal. It is therefore suggested that the practice in the settlement should be made uniform with that followed in India, by issuing the early morning meal of "*kanji*" on Sundays and holidays as well as on working days.

Prevalence of malaria.

603. It is generally agreed that the most important cause of the ill-health which has marked the settlement of Port Blair is malaria, which, as we have already said, is conveyed by a species of mosquito breeding in the salt swamps on the coast. The swamps owe their saltness to an inflow or infiltration of sea-water and therefore exist only near the sea. The mosquito in question breeds only in the saline or brackish water of these swamps and is not found much more than half a mile from them. Had the founders of Port Blair known these facts, they would have placed their buildings a mile or so back from the sea and would thus have avoided this pest, a course which has been followed with fair success in regard to the forest camps in the Middle Andaman. As, however, the buildings already exist, and are near the sea and swamps, the only course is to fill up or drain the swamps in their neighbourhood. This has been done in the case of the swamp between the Cellular and Female Prisons and the execution of the

work has been followed by a marked reduction in admissions to hospital for malaria in the Female jail, as the following figures show:—

Year.	Population.	Admissions for malaria.	Ratio per cent. of admissions to population.
1913-14	281	581	206.76
1914-15	279	430	154.12
1915-16	286	911	318.53
1916-17	287	457	159.23
1917-13	275	332	120.73
1918-19	270	130	48.15

Measures for eradication or prevention of malaria.

604. It would doubtless be hazardous to regard it as absolutely proved that the reduction in malaria here shown is due to the disappearance of the breeding haunts of the malaria-carrying mosquito, but it certainly seems to be highly probable. If it is so, it is of the first importance to reclaim in the same way all other salt swamps in the neighbourhood of those buildings which are of too permanent and expensive a character to be moved or abandoned. This work should, we think, take precedence of all other projects; the number of convicts employed on it should be raised to the maximum useful number, even if this involves postponement of desirable industrial development. It will in the long run be for the benefit of that development that malaria shall be exterminated or at least reduced. It should, we think, also be considered whether, in the case of the stations consisting of less permanent and costly buildings, they could not be removed from the neighbourhood of the salt swamps to higher land where the malaria-carrying mosquito does not appear. In the case of the great swamp near Wimberleygunj, this might be a possible alternative to the scheme for shutting out salt water by means of sluice gates. We have recommended above (paragraph 589) that in choosing sites for the proposed concentration stations or temporary jails only healthy and non-malarious localities should be selected.

Employment of convicts.

605. It is impossible for us to deal in detail with the question of the employment of prisoners during the period which must elapse before deportation to the Andamans is reduced to the limits contemplated in paragraph 566. As a general principle we think that every endeavour should be made to abolish those methods of employment which are prejudicial to the health of the prisoners. We notice the case of the forest camps below. We understood that fuel-cutting in the mangrove swamps was one of the more unhealthy forms of labour and possibly some way of dispensing with this might be found. It must be left to the Chief Commissioner to determine what classes of employment should be abandoned, as the population is gradually reduced. We hope, in any case, that it will be regarded as a general principle that no convicts, for whom accommodation is available in their own Province in India, shall in future be sent to the Andamans merely on the ground of demand for labour there.

Future industrial development of the Andamans.

606. Some remarks on the future industrial development of the Andaman Islands have already been made in paragraphs 561 and 562 and we need not repeat what has been said there. As the convict population falls, it will gradually

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become impossible to carry on the various enterprises now pursued or contemplated, and when that time arrives, it will be for the authorities then in control to decide what steps should be taken for the future. Further experience will have been gained of the prospects of the rubber and cocoanut industries and the propriety of carrying these on by free labour under the Chief Commissioner, or of leasing them out or otherwise making them over to private enterprise, can then be determined.

The forest camps in the Middle Andaman.

607. Some account must here be given of the forest camps in the Middle Andaman. These camps are reached by a steamer journey of about six hours, followed by a journey of about two hours by launch up a creek, and by a five mile trolly journey into the forests. As above noticed, the camps have been placed some way from the salt swamps in order to be beyond the ordinary haunts of the malaria-carrying mosquito, *N. ludlowi.*

Same subject continued.

608. The convicts who work in the forests number about 850. They are housed in bamboo huts raised two to three feet above the ground such as may be seen in any jungle village. There is no attempt at confinement, but there is a roll-call in the evening. The only officer in charge is an overseer in addition to a forest ranger and the control is practically in the hands of convict officers. The district officer from Wimberleygunj, Port Blair, visits the Middle Andaman for a day once in two months. When not at labour, the convicts are left very much to their own devices. Thus on Sundays they go out hunting wild pig with dogs, of which they keep a number. The camp, in fact, closely resembles a jungle village, with dogs, fowls, etc., about the huts, but with no women. Under such conditions there is no check on unnatural vice and the district forest officer, Mr. Bonig, who has many years' experience of the camps, expressed the opinion that this vice was very prevalent there.

Same subject continued.

609. All provisions have to be brought by steamer, launch and trolly from Port Blair, and there can be little control over the food. We weighed a dozen convicts. Ten out of twelve had lost weight since admission to the settlement, the average net loss of weight being 8 1-6 lbs. per man. There is only one sub-assistant surgeon provided for the charge of these 850 men, and when he is away on leave or ill, there is no one to take his place. He was absent on the date of our visit and the only person in charge of the hospital was a convict who, before his conviction, had been a trader in Bellary and who was called a compounder. There were only four *charpoys* in the hospital. Seventeen men were lying on the floor. The senior medical officer of Port Blair visited the Middle Andaman only once in the year 1919. We are quite satisfied that, overburdened as he is with duties at Port Blair, he could not make the voyage oftener.

Same subject continued.

610. The conditions in which these 850 convicts are kept, far away from all superior supervision or medical aid, appeared to us to be quite unsuitable and

difficult to defend, unless on the ground that they are really a necessity in forest interests. As to this we understood that the district forest officer, North Andaman, Mr. Bonig, had succeeded in procuring 700 or 800 free labourers from India to work there and that the boatmen employed are also free men. Mr. Bonig told us that he would prefer to eliminate convict labour from the camps owing to the immorality prevailing and he appeared to think that, if free labour were offered suitable terms and were properly looked after, it could be obtained. The deputy conservator of forests also expressed very similar views. He thought that though free labour was paid at a higher rate than that paid for convict labour it was really cheaper. He preferred free labour, would not be sorry to see convict labour put an end to and expressed the opinion that with good treatment and fair wages there would be no difficulty about recruitment. In these circumstances it did not appear that there was any necessity for the prolonged use of convict labour. We accordingly suggest that a definite date should be fixed after which the supply of convicts will be withdrawn, say October 1921 for labour not employed on extraction (about 550 men), and October 1922 for labour employed on extraction (about 300 men at the date of our visit). Unless some such step is taken, there appears to be a danger that the employment of convicts under the conditions above described may continue indefinitely.

Record of gangs and labour should be maintained.

611. As was pointed out by Colonel Douglas in Chapter III of the Report forwarded with his letter No. 3601, dated 18th February 1919, no record is at present maintained of the work done by the various gangs, except to some extent in the Forest Department. He states that in consequence there is considerable wastage of labour, especially in the Public Works and Commissariat Departments, and this results not only in loss to Government but in a failure to exact a proper outturn of work from the convict. These defects are largely due to the absence of the staff essential for proper supervision and we hope that, with the increased establishment which we recommend, it may be possible to insist on the maintenance of a proper labour register for each station, to obtain a larger outturn of work and to effect a consequent economy in the use of labour.

Possible use of labour-saving machines should be considered.

612. Another point to which attention may be here drawn is the possibility of introducing with advantage labour-saving machinery, such as steam-rollers for the roads. In the past, the constant and abundant supply of labour has perhaps rendered such methods unnecessary, but if the number of convicts sent to the Andamans is reduced, as a result of our proposals, it will become of importance to economise labour, and the introduction of machinery will then become imperative.

Number of convict officers to be reduced.

613. One direction in which a substantial saving in labour should be immediately possible is by a reduction in the number of convict officers. We have already referred to the excessive extent to which reliance has been placed

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on this agency and to the necessity for replacing it to a large extent by paid officers. The extent to which the administration of the settlement has been entrusted to these convict officers is evident from the fact that there is no warder staff outside the Cellular Prison and, as we have seen, only ten warders in that prison. Rule 16 of the rules submitted by the late Superintendent, Colonel Douglas, with his letter No. 430, dated the 11th May, 1916, puts the position beyond doubt. It says :—

"16. *Control of convicts.*—The direct control of convicts should be entrusted to convict petty officers, who should be appointed under the orders of the Chief Commissioner, but shall not exceed 14 per cent of the convicts in the settlement."

The actual number of men thus employed as convict officers under the various titles of petty officers, tindals, peons and jamadars appears to be about 1200. When an adequate paid staff is provided, this number ought to be largely reduced. We recommend also that, as far as possible, their duties and responsibilities should be regulated in accordance with the principles which have been laid down in Chapter VI of this Report.

Classification of convicts to be introduced.

614. As far as we could ascertain, no serious attempt is at present made to classify prisoners in the Andamans outside the Cellular and Associated Jails. In these jails prisoners under 20 years of age are kept entirely apart from other classes and when the Associated Jail was started in 1916-17, it was intended also to separate habitual from non-habitual prisoners and to establish a Star class. In practice, however, this has not been effectively carried out, partly because of the difficulties of arranging for separation, especially at labour, and partly because it did not seem to be worth while to separate the men in the jail, seeing that they would mix immediately they were transferred to the convict stations. The result is that, as we have said, the more corrupt and the less corrupt, the habitual and the non-habitual, have all been allowed to be together. We think that an effective measure of classification should now be introduced. There should be no insuperable difficulty in setting apart one or more of the concentration stations or temporary jails for habituals and in sending all of this class to that station. These convicts should be the first class to be concentrated together. They should wear distinctive clothing as in Indian jails. The other convicts would then be kept in the remaining stations. These prisoners might well be divided into a Star class and an Ordinary class in the manner advocated for adoption in Indian prisons. Such a classification will doubtless cause some inconvenience in the adjustment of labour, but that consideration should not lead to the abandonment of all the principles applied in other penal institutions. With the introduction of a proper classification of prisoners, the maintenance of the gangs known as the "75 Gang" and the D (or dangerous) class may be abandoned. We think also that the rules regarding the employment of habituals as convict officers ought to be applied to the Andamans. We recognise, however, that in the special circumstances of those islands, it may be necessary, during the intermediate

period which will elapse before the deportation of prisoners is restricted within the limits contemplated in paragraph 566, to permit habituals to be employed as convict officers in those concentration stations which are reserved for the habitual class. This arrangement should be strictly limited to that class, and no habitual should be allowed to be employed as a convict officer in any station where non-habitual prisoners are confined.

Self-supporter system.

615. After serving for not less than ten years from the date of arrival in the settlement a convict is eligible to receive a ticket as a self-supporter either continuing to live in one of the convict stations or getting or erecting a house in a village. Of the 1,300 male self-supporters about 670 live by agriculture, 500 are employed in domestic service and the remainder earn their living as artisans or in miscellaneous ways. If the self-supporter elects to get or erect a house, he may arrange for his wife to come from India to join him, an arrangement which is seldom made, or he may contract a local marriage, or he may live as a bachelor. We have already stated that the number of women is insufficient to provide a wife for each self-supporter, and that in fact there is only one female to every six male self-supporters, a state of affairs resulting in wide-spread immorality among the women. The late Superintendent, Colonel Douglas, has attempted to provide a palliative by insisting on all the married families being concentrated in certain villages, while the single men are required to leave those villages and to reside elsewhere, and this step is said to have had some effect in improving matters, though it cannot remove the fundamental difficulty arising from the paucity of women.

Existing self-supporter system to be abandoned.

616. The practice of releasing prisoners as self-supporters was apparently due to the original idea of settling the convict as a free man with a family in the settlement. Owing to the causes already noticed, this plan has broken down and the idea has been abandoned. No convict is now allowed to remain in the settlement after the completion of his sentence, even if he wishes to do so, but is required to return to India, and thus the self-supporter system has to a large extent lost its *raison d'etre*. If, as we recommend, all female convicts are repatriated and if no more are in future transported to the Andamans, the marriage of self-supporters with these women will cease to be possible. This is in our opinion a very desirable result, for we are unable in any way to approve of the existing system of convict marriages. Thus any convict hereafter released on the self-supporter system would have to live a life of celibacy, unless he could induce his wife to come from India to join him. In these circumstances we see little advantage in continuing the self-supporter system on its present scale. Those convicts who have already taken out a self-supporter's ticket should remain in the settlement pending completion of their sentences, unless in any case release under section 401 of the Criminal Procedure Code is sanctioned by the local Government concerned. No further recruits, however, would hereafter be added to the existing self-supporter class.

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Remission system to be introduced

617. If the convicts now in the Andamans are thus in the main deprived of the prospect of becoming self-supporters, it will be necessary to introduce there the remission rules as they exist in Indian prisons. Presumably the reason why those rules have not hitherto been applied to the Andamans is the fact that the system of release as self-supporters was supposed to constitute a sufficient concession to the prisoners in the settlement, and so to render the grant of remission unnecessary. We do not think that this was an altogether adequate reason, because only a comparatively small number of convicts become self-supporters, but if the system of releasing prisoners as self-supporters is terminated as above suggested, the Indian system of remission should certainly be introduced instead.

Revision of sentences by revising board.

618. In this connection we advocate the application to prisoners now in the Andamans of the same principles relating to the revision of sentences as have been proposed in Chapter XVI of this Report. No revising board constituted at the Andamans would, however, be in a position to judge of the question of release of those prisoners whose return to India might be prejudicial to society. We accordingly suggest that when a prisoner has reached the stage of his sentence which would, if he were in an Indian prison, bring his case before the local revising board, a report on his conduct and character in the settlement should be sent by the responsible authorities of the Andamans to the revising board of the Province to which the prisoner belongs, so that the question whether his release is practicable should be given due consideration by that Board. For the purposes of this proposal, a life sentence should be taken at 20 or 25 years, as laid down in the remission rules.

Release of decrepit prisoners to be considered.

619. Owing to the absence of any remission system and to the long sentences of a large proportion of the prisoners, there is a tendency for a considerable number of old and infirm prisoners to accumulate in the settlement. Many of these prisoners, who were undoubtedly dangerous characters at the date of their conviction, have in course of years become so aged and enfeebled that they might be released without danger to society. We think that the medical aspect of this matter has not been given sufficient prominence in the past, and in the future we suggest that it should be open to the medical officer of the Andamans, when any prisoner has, in his opinion, reached a stage of decrepitude which renders him unlikely to be a serious danger to the community, to furnish to the local Government concerned, through the Chief Commissioner of the Andamans, a certificate to that effect with a view to the question of the man's release being considered.

Prisoners ineligible for return to India.

620. In spite of these measures there will still remain a small number of prisoners under life sentences whose return to India is objected to by the local Government of the Province to which they belong, and who therefore will have to remain permanently in the settlement. We have dealt with this

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class in paragraph 585 and it is unnecessary to repeat here the views that have been there expressed. We recommend that the prisoners in question should be dealt with on the lines there suggested.

Stipends of existing self-supporters.

621. We may mention here that we received a good many complaints from men, who are now non-agricultural self-supporters in the settlement, that the rate of stipend allowed them, commencing at Rs. 7 per mensem, is insufficient. There has undoubtedly been a great rise in the price of food and we are inclined to think that there is some foundation for these complaints. One effect of the small wage paid to self-supporters is that they are thereby driven to buy dry grain at cheap rates from convicts living in the stations. These prisoners are ready to sell the grain in order to procure opium, tobacco and other prohibited articles. Thus the traffic has the double ill-effect of reducing the convict's food and of supplying him with noxious drugs and it would therefore be worth while to place the self-supporter above any necessity to eke out his wages by the purchase of convicts' rations.

Issue of dry rations.

622. The question of the issue of "dry (*i.e.*, uncooked) rations" to prisoners in the settlement has long been a prominent subject in the literature relating to the Andamans. It is generally agreed that the practice of issuing uncooked food leads to many abuses and that it ought to be abolished. The evidence given before us was generally to the effect that while cooked food is seldom sold, there is a considerable traffic in uncooked food, which is bartered for all kinds of prohibited articles. It has hitherto been found impossible, owing to the absence of sufficient staff, to bring this to an end. If, as we propose, the stations are reduced in number and the prisoners are concentrated in a few properly equipped temporary jails with an adequate staff, all food should be cooked at the kitchens of these concentration stations and the practice of issuing " dry rations " to convicts should be terminated.

Introduction of gratuity system recommended.

623. We recommend the introduction in the Andamans of the same rules regarding gratuities to prisoners as we have recommended in paragraphs 258 to 263 for adoption in Indian prisons. There will be much less objection in the Andamans than in an Indian jail to the purchase by a prisoner of articles of luxury, because the difficulty of preventing their illicit introduction is greater, while the gratuity system would supply the convict with a motive for industry and good conduct which is as yet hardly present. If the gratuity system is introduced the existing distinction between second and third class convicts can be abolished.

Provision of moral and religious influences.

624. Efforts should be made to provide adequate religious and moral influences among the prisoners. We think that religious teachers should be engaged to visit the prisoners and to teach them the principles of morality. It might be possible to obtain the services of a member of the Salvation Army to work among the

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Christian prisoners. The existing embargo on the construction of religious buildings should, we think, be withdrawn.

Points of detail.

625. In the course of our visit to the Andamans a variety of comparatively minor points were brought to our notice by petitions or otherwise. These we will now proceed briefly to notice. Although matters of detail, they have considerable importance in regard to the prisoners concerned :--

Rules regarding interviews.

(*i*) Under rule 116 of the Andamans Manual no interview is allowed to any prisoner until he has completed five years in the settlement. In most Indian Provinces an interview is allowed to convict whose conduct has been good once in four months, and oftener in the case of convict officers, and we have recommended that this period be reduced to three months. We suggest that in the Andamans also the rule should be modified so as to permit an interview once in three months. Owing to the difficulties of communication it is not likely that much advantage will be taken of the concession.

Rules regarding letters in vernacular languages.

(*ii*) Under rule 307 of the Andamans Manual letters to or from convicts are allowed to be written only in such languages as are prescribed by the superintendent, and apparently no letters are at present allowed except in seven selected Indian languages. The rules in force in most Indian Provinces permit prisoners to write letters in their own vernacular without such restriction and little practical difficulty is experienced in carrying this out. We think that rule 307 of the Andamans Manual should be modified so as to allow letters to be written in any Indian vernacular or in Singhalese, the necessary arrangements being made by the superintendent to obtain translations or to provide otherwise for the letter being censored.

Rules regarding letter writing.

(*iii*) Under rule 310 of the Andamans Manual, second and third class prisoners are not allowed to write more than one letter annually. It is suggested that in this matter also the practice recommended for Indian jails should be adopted.

Rules regarding petitions to Government.

(*iv*) By rule 221 of the Andamans Manual it is provided that petitions for remission of sentence shall not be forwarded to Government, unless the prisoner has been rendered eligible for pardon by long and good service during twenty or twenty-five years, or by some signed act of good behaviour. We think that in future any convict should be permitted to petition the local Government for release at reasonable intervals.

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Rules regarding stamps on petitions.

(*v*) Under article 231 of the Andamans Manual, petitions by self-supporters are required to bear court-fee labels, this direction being presumably made in supposed compliance with the Court Fees Act 1870. By section 19 of that Act, however, all petitions from prisoners are entirely exempt from stamp duty. It appears therefore either that rule 231 is in conflict with the Act on which it is apparently intended to be based, in or the alternative, if the Court Fees Act is not in force in the settlement, that there is no law on the subject. In either case it is unnecessary to require court-fee labels to be attached to petitions from prisoners. We accordingly suggest that the rule requiring petitions from convicts to be stamped should be cancelled.

Corporal punishment for escape.

(*vi*) Under a circular No. 844, dated 1st December 1915, issued by the late Chief Commissioner, district officers of the Andamans consider themselves to be bound to award corporal punishment whenever a prisoner escapes a second time. We think that a hard and fast direction of this sort is open to objection and that the district officer disposing of such a case should be left to deal with it on its merits and in accordance with his own judgment. Here, as elsewhere, we think that flogging should be inflicted only in the last resort.

Periods spent in chain-gang.

(*vii*) A prisoner in the Andamans was formerly liable to be sentenced by local courts for certain offences to periods in what was known as the chain-gang, and under Article 39 (2) of the Andamans Manual any period so spent in the chain-gang did not reckon towards the calculation of sentence for purposes of release. This rule has been cancelled, but it did not appear that the calculation of prisoners' sentences had been corrected so as to give them credit for the periods passed in the chain-gang. We recommend that this should now be done.

Houses built for self-supporters.

(*viii*) The houses which are provided for self-supporters are often built of entirely temporary materials, such as palm leaves, and thus offer no security against burglary, besides needing constant renewal and repair. We think it would be preferable that the walls of these houses should as far as possible be built of planks or other substantial material.

Books for sick in hospical.

(*ix*) We think that a small library should be provided at each of the four hospitals in the settlement, in order that any of the sick who are literate may have an opportunity of getting books

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to read and that if possible prisoners in stations shall also be provided with books.

(*x*) It appears to be the practice in the settlement to take away the sacred thread from Brahmins and other twice-born castes. Under rules in force in most Indian Provinces, it is expressly provided that the sacred thread of the Brahmin, the lingam of the Lingayat, the religious beads of a Muhammadan and the rosary of Roman Catholics shall not be removed, and we suggest that in this matter the practice of Indian prisons should be adopted in the settlement, it being understood that any prisoner abusing the privilege may be deprived of it. Similarly women of Southern India or other parts, where the custom is for married women to wear a *tali* or a wedding ring, should be allowed to retain these symbols.

Caste and other symbols not to be removed from prisoners.

(*xi*) The Jail Codes in force in India usually contain specific directions that interference with the religion and caste prejudices of prisoners is prohibited, together with subsidiary instructions regarding the use of Brahmin cooks and other connected matters, guarded by the remark that this rule is not to be made an excuse for frivolous complaints or unnecessary neglect of prisons rules. No such rules appear to find a place in the Andamans Manual and we think that they should be inserted as a reminder of the general principle which they inculcate.

Religious and caste prejudices to be respected.

626. The problem of the Andamans is one of such complexity and possesses so many aspects that it might well be the subject of a separate report. We are conscious that our treatment of the matter must necessarily seem cursory and brief, but this was unavoidable if this portion of our Report was not to be altogether out of proportion to the remainder. The general drift of our proposals can, however, be summed up in a few sentences. We think that transportation as a sentence recognised in the Indian Penal Code should be abolished, its place being taken by rigorous imprisonment. We think also that the deportation to the Andamans of all female convicts and of the great majority of male convicts should be put an end to as soon as possible and that these convicts should serve their sentences in Indian jails. We are in favour of retaining the Cellular and Associated Jails at Port Blair as places of confinement for really dangerous criminals, whose escape or rescue from an Indian jail would embarrass the administration, or whose presence in an Indian jail would be liable to cause commotion and unrest. Until sufficient accommodation can be provided in India for the other prisoners, their deportation to the Andamans must go on, but we hope each year to a diminishing extent. Meanwhile the prisoners now in the Andamans outside the Cellular and Associated Jails

Summary of proposals.

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should be concentrated in half a dozen properly equipped temporary jails or concentration stations and should there be guarded, controlled and supervised by an adequate staff of paid officials.

How far immediate effect necessary.

627. We recommend that immediate effect should be given, as far as is possible, to all the proposals in Sections III and IV of this Chapter, except where the contrary is apparent from the context. The proposals in section II can for the most part be brought into effect only gradually, though those in paragraphs 570 and 572 might be carried out at once.

Dissent.

628. One of our number* is opposed to the recommendation in paragraph 566 and wishes to prohibit the future deportation of any prisoners to the Andamans. His views are set forth in Section V.

Section V.—Opinion of the Member who Dissents.*

The points for determination as per the reference of the Government of India.

629. The reference of the Government of India desires us to offer our recommendations on the following two points :—(*i*) whether transportation *qua* transportation should be retained in, or deleted from, the statute ; and (*ii*) whether the system of transportation to the Andamans should be (*a*) retained as it is, (*b*) mended or (*c*) ended. The latter question has been a moot point for many years and the mass of correspondence and reports which have accumulated upon this subject exhibit many divergent and controversial views. As we have had the benefit of visiting all the important places in the Andamans and examining witnesses, not only there but also in other places, I feel I am in a position to advise the Government on the two points stated above.

Preliminary points for consideration.

630. Before venturing to give my opinion on these points I find it necessary to give a short history as to how this form of sentence came into existence in India, what the original intention of the law was in invoking this form of sentence, and whether the conditions in the Andamans have actually fulfilled the object of law and penology.

Brief history of the various Committees' views as to what use this form of sentence was put to.

631. In theory, transportation ranks second only to death from the point of view of severity of punishment. It was imported here from England in the 18th century. Ever since, it has been an outstanding feature of the penal methods in India. Paragraph 182 of the Prison

* D. M. Dorai Rajah of Pudukottah.

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Discipline Committee of 1832 lays down that it should be resorted to only in the case of prisoners who deserve punishment for life. This recommendation found favour between the years 1868 and 1874. In 1868 Mr. Howell, in his note on jails, deprecated the illegitimate use to which this sentence was put, as the penal effect on the prisoners was sacrificed to the maintenance of the Andamans as a profitable concern, despite the view that had been expressed by the Committee of 1838 in paragraph 161 of their Report. He maintained that this was due to short terms of transportation of seven years or upwards; and he emphatically protested against such a system. In 1877 the Jail Conference complained bitterly of the element of uncertainty brought into existence on the ground of administrative convenience, as is apparent from the rules in the Jail Manuals. These rules embody certain restrictions as to those who alone should be sent to the Andamans. The Committee expressed the view that rigorous imprisonment was more rigorous and penal than transportation to the Andamans. The Committee of 1889 held that the punishment was not deterrent, and prophesied that before long this form of punishment would cease to exist. They postulated five arguments in support of their views. It is unnecessary to repeat them all here. It is sufficient to mention only one of them, *viz.*, that this punishment was decidedly retributive and as such opposed to the fundamental principles of modern penology. This briefly is the previous history of the views of the various Committees.

Fundamental idea on which transportation was based.

632. I next proceed to discuss what was the fundamental idea upon which transportation was based. The explanation of the draftsmen of the Indian Penal Code brings out the following ideas quite clearly :—(*i*) that transportation originally meant banishment to a far-off place across the 'black water,' *i.e.*, the Andamans which, in the case of the Hindu, implied absolute ostracism for ever from caste, and (*ii*) that in the case of all prisoners the idea was that this punishment would strike awe and terror into their minds at the time of pronouncement of sentence, owing to their terrible apprehension of what the conditions and treatment might be in an unknown place, to say nothing of their painful realisation of all the disadvantages, which deportation to a remote place away from home involves on account of the prisoners being cut off from all family ties and connections. In a word the principal object was deterrence to the individual and to the public.

Conclusion about the first point and reasons for the same.

633. It is necessary to bear in mind that according to the antiquated idea of penology reformation of the individual was not seriously contemplated if it was not entirely ignored. But the modern penology, which attaches greater value to the reformation of the prisoner than to deterrence or severity of punishment, cannot countenance such a system. England, where this idea originated, has abolished this dehumanising system, and I fail to see why India should retain this relic of an exploded idea of ancient penology. As stated above, after all, the main object of this form of punishment was its deterrent effect. Evidence has established conclusively that the sentimental terror has disappeared. Does this not cut at the very root of the intention of the legislature ? I entirely concur with the arguments advanced by my colleagues for the

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abolition of the Andamans as a place for transportation for prisoners in general. I wish, however, to add that on those very grounds it only stands to reason and is consistent with logic that no prisoner should be transported to that place, and I am therefore strongly of opinion that this form of sentence should be abolished from the Indian Penal Code.

Legal consequence following abolition of the sentence.

634. This recommendation would, of course, involve alteration of provisions of certain statutes, such as the Prisons and Prisoners Acts and especially those of the Indian Penal Code. The important alteration with regard to the Indian Penal Code will consist in the deletion of transportation wherever it appears, leaving rigorous imprisonment alone where the latter appears as an alternative sentence, and in the case of " transportation for life " to substitute " rigorous imprisonment for life ", the period of which may be calculated exactly in the same way as transportation for life is calculated now. Alteration of the other Acts and Regulations is a minor matter and can easily be effected.

Should the system be retained for special class of people to be described as specially dangerous.

635. The next point for consideration is whether the system should not be retained for the deportation of a certain class of people who are styled " specially dangerous to the interests of the community." The main reasons adduced in favour of the recommendation of my colleagues are :—(*i*) that the Andamans would be a secure place for these people, and (*ii*) that if the Islands be radically improved the conditions there, both moral and climatic, would not be as demoralising and injurious as they are now. The first argument assumes that in India it is impossible to prevent escapes of some of these prisoners, and displays want of trust in our future prison staff. If, however, our recommendations as to the improvements in the jail staff be acted upon, I feel confident that the Government will be able to secure so trustworthy, efficient and competent a staff that the Indian prisons will be as secure as the Andamans Islands. Coming to the second argument, I am of opinion that its adoption will entail on Government an enormous expenditure which cannot possibly have any compensating advantages. May I observe that the Andamans exist for prisoners and not *vice versa ?* In view of what one of the witnesses who has been a medical officer in that place has definitely deposed, *viz.*, that whatever improvements may be effected the health of the prisoners in the Andamans will never be so good as it is in the Indian jails (which view is generally shared by a few other medical officers who had also been in charge of the islands), and in view of the fact that there is very little chance of obtaining in the Andamans such educated healthy public opinion as would afford a wholesome check on the prison administration, I am unable to agree with my colleagues as regards their recommendation with regard to the deportation of the specially dangerous prisoners.

What is the definition of " specially dangerous prisoners."

636. The definition of " habitual " has given us much trouble. The old definition was vague and unsatisfactory in more ways than one. We have now defined

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it with great care. The vital point to grapple with is that there should be at least one previous conviction and that the conviction should point to the formation of a criminal habit. "Specially dangerous to the interests of the community" is a very vague expression. To define such a class at all accurately and clearly and to lay down definite criteria by which to judge it are more than a formidable task. There is bound to be diversity of opinion as to who is a specially dangerous criminal and who is not. To act upon hazy notions is dangerous and to deport a man on shaky and questionable grounds seems to me to be unfair and unjust. Every criminal who commits a crime although for the first time, which involves moral turpitude, is a possible danger to society. Habituals are certainly a menace to the public, in so far as they have formed habits of crime. But who are *specially dangerous*? The line to be drawn between dangerous and specially dangerous is, I hold, very thin indeed. Does this class include a casual? I maintain it might. In these circumstances, I am unable to agree to any such special and objectionable classification, nor do I see any need for it.

In whom should the power to classify vest?

637. In case my views may not commend themselves to the Government, I wish to say a few words (assuming for the sake of argument that "specially dangerous" people can be accurately detected) as regards those who should have power to decide as to who are specially dangerous prisoners. I am not in favour of vesting this power entirely in the hands of the executive, and have *ergo* two suggestions to offer on this point:—(*i*) Just as our Report vests the power of classification (*vide* Chapter VII, paragraph 104) of a prisoner as a casual or habitual in the trying court, the determination of who is a specially dangerous prisoner should also be left to the trying court. (*ii*) In my view of the matter, if the power be not vested entirely in the judiciary, as I desire it should be, a special board consisting of the local sessions judge and the district magistrate should consider this matter and submit a report to the Government, before any action is taken.

Accommodation for, and treatment of, such prisoners.

638. This class of prisoner will, I presume, be very small. It ought, therefore, to be feasible to accommodate them in a separate yard or where this is not posible, to build a small jail in each Province, as may be found necessary by the local Governments, and have them guarded, if necessary, by a special staff of warders. Once a prisoner is found to be a specially dangerous man, the treatment to be accorded to him in jail should be naturally more rigorous and penal than is meted out to habitual prisoners, with less liberal remission and fewer privileges than we have recommended for the other prisoners, but at the same time the spark of the hope of reformation should be kept kindled in the prisoner's breast so that he may improve his character and obtain release if possible before his term is ended. I suggest that the prisoners now in the Andamans should be transferred to the local jails and that where accommodation is found to be insufficient, temporary jails should be constructed in India. The adoption of my proposals is not likely to prove nearly as expensive as the carrying out of the multifarious changes and improvements advocated by my colleagues.

D. M. DORAI RAJAH OF PUDUKOTTAH.

CHAPTER XXII

CRIMINAL TRIBES.

Scope of inquiry regarding criminal tribes.

639. The Resolution of the Government of India appointing this Committee lays down that among the subjects to which our inquiries should have particular reference are included "any settlements constituted under the Criminal Tribes Act, 1911." From the terms of this instruction we conceive that it was not intended that we should investigate or express any opinion upon the policy of the Criminal Tribes Act as a whole or upon its working except in so far as regards the settlements which have been formed under it. If we had been directed to examine generally into the working of the Act and its effects on crime we should have found it necessary to take evidence from the heads of the Police Department in the various Provinces and to have made extensive inquiries from district officers engaged in the criminal administration of the country. This we have not done but have in the main limited our inquiries to the settlements formed under section 16 of the Act, except in so far as the method under which persons are committed to these settlements necessarily arises.

Scheme of this Chapter.

640. We propose, in the first place, to give as concise an account as possible of the various settlements which we either visited, or regarding which we received evidence from witnesses. We shall then review the conclusions which the data seem to justify and finally formulate our recommendations regarding this subject.

Madras Presidency, Kulasekharapatnam Settlement.

641. The first settlement to be noticed is one which we did not ourselves visit, but the Manager of which, Mr. J. H. A. Weth, gave evidence before us in Madras. This settlement is at Kulasekharapatnam in the Tinnevelly district of the Madras Presidency. At that place, Messrs. Parry and Company have a sugar factory and in connection with this factory there has been in existence, for the past four years, a small criminal settlement to which a tribe known as the Uppu Koravas has been committed. The population of the settlement which is only 260 includes about 100 males, 95 females and 60 children. All the inmates, except the children, are employed in the factory, the average wage being from 5½ to 6½ annas a day in the case of men and 3 annas in the case of women. The Company also supplies rice at a favourable rate. A school is maintained for the children who live with their parents, and education up to the fourth standard is compulsory for the children, but no religious teaching is given and no religious body is represented. There are no walls round the settlement. Only two persons were absconding in January 1920 and Mr. Weth told us that there is no disinclination on the part of the

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Koravas to work, and the inmates ask that their relatives may be admitted and registered. Although, at first, the labour of these people was not of much value, they have improved and the settlement is now said to be a success from the business standpoint. The people are said to be contented and have invited their relatives to join and there is no absconding or crime. No separation of children from parents has been attempted and Mr. Weth in his evidence approved of this and expressed the opinion that the removal of children would lead to unrest. The settlement seems to be successful, a fact which may be due to the personality of the Manager, but we do not think that as a general principle it is desirable that the manager of an industrial concern employing settled members of a criminal tribe should be also placed in control of the settlement in which the labourers are located.

Madras Presidency, Pallavaram Settlement.

642. The next settlement to be noticed is that at Pallavaram, about fifteen miles from Madras, which is under the control of the Salvation Army. We visited this on the 8th of January 1920. The population of the settlement is about 200 and is composed of Veppur Pariahs. About 60 adults are employed in the neighbouring stone quarries belonging to the Corporation of Madras where the wage are 8 annas a day for a man and 4 annas a day for a woman. The average income of a family is thus Rs. 18 to Rs. 20 a month. Another 30 of the adults are employed in making sandals for the Police Department and their wages average Rs. 16 a month. Some of the older men and women are not employed. The people seemed to be contented, and we received no complaints. There were practically no absconders, but 10 men were undergoing terms of imprisonment in jail. There is no wall round the settlement. The children live with their parents and are given elementary instruction in the school in the settlement while the Salvation Army officer in charge gives addresses on Sundays to the adult population. Here, again, the combination of a fair living wage with general contentment and the absence of absconding will be noticed. The Salvation Army officer in charge, Adjutant Martin, expressed a strong opinion in favour of removing the children entirely from their parents and from the settlement, though he afterwards agreed that occasional interviews might be allowed.

Madras Presidency, Perambur Settlement.

643. At Perambur on the outskirts of the town of Madras, another settlement, for Veppur Pariahs, is also managed by the Salvation Army. We visited this settlement on the 9th of January. The population of the settlement is about 250. A few were in jail for thieving or absconding, but there had only been two absconders in the previous ten months. The inmates are employed in various ways. About 25 were working in the neighbouring cotton mills, an equal number were employed on road work for the Corporation, while a few were engaged in making sandals. We did not get detailed information regarding the average wages, but in this settlement we received numerous complaints regarding the accommodation provided and the work. The children live with their parents and a school exists in the settlement where they are taught up to the third standard. If the parents misbehave seriously, their children are sent away to a boarding school at

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Bangalore. The Salvation Army officer in charge, Adjutant Beattie, was in favour of removing the children from the settlement to a hostel outside but near enough to let the parents seen them at intervals. He said that he had no trouble with the settlers so long as they have work to do and a fair living wage. We did not think the site of this settlement in the outskirts of Madras to be very well chosen, nor the arrangements for employment of the settlers to be adequate, except in the case of those employed in the cotton mills, and the complaints which we received showed some amount of discontent on this account.

Madras Presidency, Kavali Settlement.

644. The next settlement we would refer to is that conducted at Kavali in the Nellore district under the control of the Reverend S. D. Bawden of the American Baptist Mission. This settlement is intended for the Donga Yerukalas and contains about 1,800 persons who are divided into three groups; first, the reformed group at Allur with about 150 residents; the second a partly-reformed group at Bitragunta with about 350 persons; and the third, the unreformed group at Kavali with about 1,150 persons. At Allur there is only an overseer in charge and here the people have been given land for cultivation under conditions which amount to practical freedom. At Bitragunta the people are also being given land and results are also satisfactory. There was no absconding from this group or from Allur. At Kavali, on the other hand, the employment provided is mainly cooly work in mending roads, repairing tank bunds, clearing channels and the like. So far as possible all work is paid for on the contract basis and the Manager admitted that with the then prices of grain, the sums earned were often not enough. This he attributed to the lack of industry on the part of the people. A large amount of absconding has occurred here, some 330 persons, equal to 40 per cent of the adult population of the settlement, being either absconding, or in jail for absconding. We were unable to visit the settlement, but at the Vellore Central Jail, where those absconders who have been captured were undergoing punishment, many complaints were made regarding the wages disbursed at the Kavali settlement. The children ordinarily live with their parents in the settlement and education is provided but those who have passed the third standard or the age of nine are in a boarding school at Kavali. Mr. Bawden was strongly opposed to complete separation of the children from the parents. He preaches on Sundays and all inmates are required, as a matter of discipline, to attend. It will be observed that at Allur and Bitragunta, where the settlers have been given land, presumably sufficient for their maintenance when taken together with the wages, they can earn as agricultural labourers, absconding does not occur, but that at Kavali where the wages are admittedly insufficient, there is clearly much discontent and a large amount of absconding and crime exists.

Madras Presidency, Stuartpuram Settlement.

645. The next settlement to be noticed is that conducted by the Salvation Army at Stuartpuram in the Guntur district which we visited on the 14th of January. This settlement is intended for Yerukalas and it has a population of about 1,600; of whom, 500 are males, 450 females and 600 children. These people are largely settled on the land, and where the land is of good quality and water is available, they are able to make a satisfactory living, the

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women also working at mat-making and a little weeding. The men holding land are self-supporting and pay an annual rent of Rs. 5 per acre for the land. Those who are on cooly work are paid a daily wage and not, as at Kavali, by the piece. The people appear to be contented and we received no complaints. There were about 40 cases of absconding per annum. There are no walls nor police. There is a boarding school for children where 50 children are fed and clothed, and a day-school for the remaining children. The difficulty in connection with this settlement was the absence of a regular supply of water for irrigation, a fact which left the settlers very dependent on the chances of the season. Captain Robilliard, the Salvation Army officer in charge, hopes that irrigation may be provided which would doubtless be very desirable and supplementary employment, such as canning tomatoes, added; but, on the whole, the subsistence obtainable from the land appeared to be adequate to satisfy the people and crime and absconding are accordingly less prominent than at Kavali. A complaint was made here regarding the large number of additional settlers recently sent into the settlement, as such sudden influxes of fresh material embarrass the management and retard the progress of the whole settlement.

Madras Presidency, Sitanagaram Settlement.

646. At Sitanagaram, also in the Guntur district, another settlement exists for the Donga Yerukalas under the management of the Salvation Army. The population here amounts to between 600 and 700—200 males, 200 females and 300 children. The people are employed mainly in quarrying stone, the workers here being paid a daily wage of 4 to 5 annas for men and 3 annas for women. There are a certain number of piece-workers, and some weaving is being carried on in the cottages. The amount of absconding is large, about 50 cases a year, but was said to be diminishing as the people become accustomed to the settlement. No enclosing walls of any kind exist and no police. All children live with their parents, a school being provided in the settlement. The Salvation Army officer here, Adjutant Mabe, expressed strong disapproval of the idea of completely separating the children from the parents. The settlers are also being given land, if they apply for it, but this is not regarded as the principal means of living. We received no complaints at this settlement but the number of absconders was considerable.

Madras Presidency, Other Settlements.

647. There are several other settlements for criminal tribes in the Madras Presidency. Of these, three appear to be run on agricultural lines; in one the inmates are employed in tank-digging, road-work and blanket-weaving while another is used as a semi-penal settlement for badly behaved members of the other settlements. Unfortunately, we were unable to visit these settlements which are mostly of small size.

Bombay Presidency, Sholapur settlement.

648. The next group of settlements regarding which we obtained substantial information are those in the Bombay Presidency. The settlements at Sholapur which we visited on the 16th of March, are in charge of the Reverend H. H. Strutton of the American Mission and comprise members of several criminal

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tribes, *viz.*, Kaikadis, Chhapparbands, Haranshikaris, Mang Garudis and Bhats. The total population amounts to about 3,500 divided into two groups: one just outside the town of Sholapur, and the other in the town. In both cases, the adults are largely employed in the Sholapur Cotton Mills, the average wage of unskilled labour there being 8 annas a day. There are few absconders; on the contrary, many applications are received from members of the tribes outside the settlement to be allowed to join the settlement. A wire-netted enclosure has been provided for those persons who have been convicted of theft in the mills or have misbehaved otherwise, and a small police guard is employed. Children live with their parents and excellent schools are in existence, under the supervision of Mrs. Strutton, in which education up to the fourth class is given, though a few go on so far as the lower secondary stage, the object being to train them for employment as teachers. Few, however, care to pursue their studies, because as soon as they are old enough, they, or their parents, are anxious that they should be enlisted as wage-earners in the mills. The average wage-earnings of a man in the mills taken over the last three years have been Rs. 12 a month, that for a woman Rs. 6 and that for a child Rs. 6, to which should be added a grain allowance given by the mills of Rs. 3 a month. Thus, a family of two adults and two children may get over Rs. 30 a month. During the recent strikes in Sholapur, the inmates of the settlement behaved extremely well and continued to work after all other labour had struck. The wages paid in the mills to the settlers do not differ from those paid to other labourers. We received no complaints in this settlement and the people appeared to be contented and prosperous, thus again showing that where suitable and remunerative work is provided, it is possible to induce the criminal tribes to settle down to regular labour.

Bombay Presidency, Bijapur Settlement.

649. The next settlement which we visited in Bombay was that at Bijapur, under government management. This settlement was visited on the 17th of March and includes Kaikadis, Chhapparbands, Haranshikaris and Bhats. The population is about 800 with practically no absconders. There are no enclosing walls. The settlers are mainly employed in cooly work in the town of Bijapur and also as masons, carpenters, blacksmiths, private servants, etc., and in the cotton ginning mills. The Public Works Department employ a considerable number of the settlers in breaking road-metal. The wages obtained are good and, though the labour is frequently changing and never so secure and continuous as that in the cotton mills of Sholapur, the results seem to be satisfactory, perhaps owing to the personal influence and close supervision exercised by Mr. O. H. B. Starte, I.C.S., and during his absence on leave by his *locum tenens* Mr. F. W. O'Gorman, Bombay Police, the headquarters of the officer in general charge of the settlements for criminal tribes being at Bijapur. We received no complaints and the people appeared to be contented. A flourishing school is in existence where the children are taught up to the third standard, some instruction being also provided in industries.

Bombay Presidency, Other Settlements.

650. We were not able to visit the other regular settlements for criminal tribes in the Bombay Presidency. In three, namely, those at Hubli, Gadag, and

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Gokak Falls, the labour provided is in the neighbouring cotton mills. At a fourth settlement, Bagalkot, the work consists of fuel cutting in the forests, ginning mills or ordinary cooly work. Again, at Khanapur, the settlers, who are persons selected from the Berad community, are engaged partly in cooly work and partly in a distillery. Finally, at Hotgi a few families of the best conducted settlers have been given lands for which they pay a small occupancy price. This settlement is, however, mainly used as an agricultural training school for well-behaved lads whom it is hoped to employ as agricultural instructors. There are also a few small agricultural settlements in the Bijapur district which are said to be doing well.

Bombay Presidency, Visapur Special Settlement.

651. In passing, we should mention here that on the 15th March we visited near Visapur a settlement of an altogether different type though it is constituted under the Criminal Tribes Act, 1911. This settlement is under the control of the Jail Department and not under that of the Officer in charge of Criminal Tribes Settlements, Bombay. Here are detained a small number of the more dangerous characters belonging to the Hur community of Sind, a fanatical sect of Muhammadans addicted to crimes of violence and especially to murder. On the date of our visit there were 104 men, 36 women and 33 children in this settlement. The men are required to work on the neighbouring Visapur project, but there is no expectation that they will ever actually be settled in this locality. They have, in fact, been deported and are held here, as in a sort of inland penal settlement. It was explained to us that the Hur community is well-to-do and that if these men were proceeded against under Chapter VIII of the Criminal Procedure Code, security would readily be forthcoming and the individuals concerned would then be left free to carry on their customary practice of murdering anyone who offends them. The Hur community seems to offer points of resemblance with such anomalous organisations as the Thugs of a century ago or the Hindustani fanatics of the North-West Frontier and we are quite prepared to accept the view that some special measures were needed to deal with this tribe and that the deportation of the worst characters among them has had a wholesome effect. At the same time, we would emphasize the fact that this so-called settlement has little or nothing in common with those generally constituted under the Act of 1911 in Bombay.

United Provinces, Cawnpore Settlement.

652. We now proceed to refer to the settlements in the United Provinces. The first one which we visited is under the care of the Salvation Army in the town of Cawnpore. It contains a total population of about 250—of whom 80 are men, 80 women and 90 children. They belong to the Haburah tribe and the men and women are employed in Messrs. Cooper, Allen and Co.'s boot and shoe factory. The work is all piecework, and an average wage of Rs. 10 per mensem is obtained so that a family of three can make Rs. 30 a month. Both men and women go to the factory for work, the younger women only working in the settlement. No police are employed but a mill-inspector accompanies the people to the mills. The amount of absconding is small. We were told that the people in the settlement often ask that their

relatives should be allowed to come into the settlement. The children live in the settlement where a school is maintained for them. We received no complaints, and the people whom we saw appeared to be contented; the general conclusion, *viz.*, that suitable work and good wages will effect a satisfactory settlement of these criminal tribes, being once again here illustrated.

United Provinces, Fazalpur Settlement, Moradabad.

653. The next settlement which we visited in the United Provinces was that at Fazalpur near Moradabad. Here, there is a population of 800 consisting of Bhatus, Sansias, Doms and Haburahs, and the settlement is under the control of the Salvation Army. These settlers are employed partly in agriculture, partly in tile-making and partly in silk-worm breeding and weaving. They are paid largely on the piecework system and the average wages per head of workers were about Rs. 4 per mensem. It was admitted that this wage was insufficient for the maintenance of the inmates, but it was urged that it was open to them to increase their earnings by greater industry. The amount of absconding is large. In February 1920 there were 159 absconders in addition to 104 prisoners in jail for absconding. The amount of absconding varies materially with the class of criminal tribe to which the inmates belong. Thus, taking the month of March 1919, the number of men absconding or in jail was equal to 38 per cent. in the case of Sansias, and 63 per cent. in the case of Bhatus. The Haburahs are the best-behaved and showed about 21 per cent only of absconding. The proportion of children is extremely low, not even one in each family. They live with their parents and a school is provided for them. The settlement has been in existence since 1910. The combination of a low average wages and a large proportion of absconders was here marked.

United Provinces, Najibabad Settlement.

654. The next settlement we saw was that at Najibabad to which we paid a visit on the 2nd of April. This settlement is under the Salvation Army and has been in existence since 1914. The tribes represented are Bhatus, Kanjars and Doms. The people are employed largely in weaving, and the average wage in November 1919 was Rs. 3-12-0 per mensem while the highest wage earned by any worker was Rs. 10-3-0. The percentage of men absconding in June 1919 was 67 and in October 1919, 60. Of the men who entered the settlement in 1914, only four have never absconded; of those who entered in 1916 only seven have never absconded; and of those who entered in 1918 only one has never absconded. We received a large number of complaints from the settlers against their detention in the settlement. Children live with their parents and a school is provided for them. We were specially impressed by the earnestness of the Salvation Army representatives in charge of this settlement who have been engaged on this up-hill task for six years continuously.

Bengal Presidency, Saidpur Settlement.

655. In the Bengal Presidency only one settlement for criminal tribes exists, *viz.*, the settlement for Karwal Nats at Saidpur in the Rangpur district. We were unable to visit this settlement but have obtained information regarding it

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from the Inspector-general of Police, Bengal, and the district magistrate of Rangpur. The settlement, which has been in existence for five years, is under the charge of an officer of the Salvation Army. The population has fluctuated very much, having included 78 adults and 49 children in 1917, 116 adults and 76 children in 1918 and 204 adults and 151 children in 1920. The population thus shows a steady tendency to increase, every Nat found in Bengal being sent there; but as the accommodation is already insufficient and the sanitary arrangements inadequate, this rising population is a source of embarrassment to the responsible authorities. The inmates are employed in weaving, but the number of looms is limited by the size of the weaving shed, and the Manager reports that he cannot find a market for the outturn of a larger number of looms than he has at present. Consequently, the looms give employment only to a small percentage of the people in the settlement. The majority of the Nats do little, or no work and are paid a subsistence allowance of four annas a day. Those who have been there some time show improvement, but the equilibrium of the settlement is continually upset by new admissions whose example leads away the others. The people can leave the settlement and return un-noticed, and often do so. Escapes have been very frequent, 285 in five years, and the inmates are believed to be responsible for a large part of the crime in the neighbourhood. The proceeds of robberies and dacoities are brought into the settlement and hidden there, and it has become a raiding centre and shelter for the criminal Nat. The Inspector-general of Police considers that from every standpoint the settlement has been an utter failure and its further continuance in its present site is indefensible. The question of its retention is now under the consideration of the Bengal Government.

Bihar and Orissa, Settlements in Champaran district.

656. The Province of Bihar and Orissa contains a large number of settlements all intended for the Dom tribe. These we were unable to visit, but we have obtained information regarding them from the Inspector-general of Police of the Province. In the Champaran district of Bihar and Orissa there are three settlements for Magahiya Doms, who have been declared a criminal tribe under section 12 of the Act. Two of these settlements, namely, those at Chauterwa and at Barwat are managed by the Salvation Army, while the third at Ramnagar is managed by the police. The population of the settlements at the close of 1919 was as follows:—Chauterwa 236, Barwat 63, Ramnagar 96, a total of 395. At Chauterwa and Ramnagar agriculture is the chief industry, some hand-loom weaving being added; but at Barwat though agricultural work is also carried on, the occupation provided appears to be mainly weaving, and the settlement is reported to be the most unpopular with the Doms on this account. Refractory Doms from other settlements are sent there. At Chauterwa some of the men are employed as *chaukidars* outside the settlement. The average wage or income of a settler does not seem to be ascertained. The amount of absconding is large. In the four years ending 1919 a total number of 150 Doms absconded from the three settlements. The largest number was 63 in 1918, when no less than 52 persons absconded from Chauterwa, which is reserved for the best

behaved Doms and where the people are said to be most contented. These results hardly indicate that the settlements are a success and we think that the methods followed should be examined with special reference to the practice in Bombay and to the conclusions arrived at in this Report.

Bihar and Orissa, Settlements in Saran district.

657. In the Saran district of Bihar and Orissa there are a number of small Dom settlements in charge of the police, numbering thirty in 1919. At the close of that year there were detained in these thirty settlements a total number of 987 persons, of whom 622 were adults and 365 were children. Of the adults, 307 were males and 315 females. Twenty-five of the males were absent on active service as *syces* and sweepers and another 25 were employed outside the settlement as sweepers in the municipalities of Chapra and Bevilganj. The rest of the people are engaged in agriculture and in some cases are said to be settling down to cultivation, learning to store their surplus grain, purchasing cattle, goats and pigs, and building themselves mud huts. It is proposed to introduce poultry farming and cane work as home industries. The settlements are scattered all over the district, often at long distances from the thanas, and close supervision is impossible. The district superintendent of police remarks that it is surprising that the Doms do not commit more crime than has come to light, but that doubtless much of their evil-doing is not reported. He regards the whole system as unsatisfactory and advocates the collection of at least the worst members of the tribe at one or two places where they could be supervised and reformed. The great need of the settlements for criminal tribes in this Province seems to us to be a special officer in general charge who would lay down and carry out a consistent and well-considered policy.

Burma, Assam, Central Provinces and North-West Frontier Province.

658. In Burma, Assam, the Central Provinces and the North-West Frontier Province no settlements for criminal tribes exist.

Importance of the economic factor.

659. At this point we think it may be useful to sum up some of the conclusions suggested by the information collected in the foregoing paragraphs. The main point to which we would invite attention is the predominant importance of the economic factor in dealing with the question of criminal tribes. The facts collected seem to establish beyond doubt the proposition that the first essential of success is the provision of a reasonable degree of economic comfort for the people. Mr. O. H. B. Starte, I.C.S., whose long experience in work among criminal tribes in Bombay makes him probably the leading authority in India on this subject, inclines to the belief that in many cases economic causes are at the bottom of the criminal habits of these people. In the case of the wandering tribes, so long as they were constantly passed on from district to district by the police it was hardly possible for them to settle down to any steady form of industry. Under the organisation created under the Criminal Tribes Act, 1911, they are now able to adopt a settled life, and in many cases are glad to do so. Even in the case of the more stationary tribes, the poor quality of the lands

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they held may have something to do with the adoption of predatory habits, a case in point being that of the Kallars of South India. The necessity of providing adequate and remunerative work, if these criminal communities are to be weaned from criminal courses and converted to habits of industry is, we think, clearly established by the experience acquired in the settlements already noticed. Enthusiasm, devotion, and religious teaching are invaluable adjuncts in work among these people, but they will accomplish little unless the foundation of economic comfort is first provided. This is well illustrated by the case of Najibabad where, after six years' work by earnest and devoted members of the Salvation Army, the persons detained in the settlements were still discontented and ready to abscond because the labour provided for them did not furnish a sufficient living wage. On the other hand, at Kulasekharapatnam in the Madras Presidency, the people are apparently settling down to habits of industry although no provision has been made for their religious or moral instruction. The other settlements above noticed present further illustrations of the same principle and it may, we think, be stated as a generally sound proposition that discontent and absconding increase as the average wage falls, and diminish as it rises.

Settlements must provide adequate work.

660. If, as we suggest, the economic position is thus the predominant factor in dealing with these people, the paramount importance of locating settlements where an adequate amount of work at remunerative rates is available becomes apparent. Mr. Starte's evidence was quite clear on this point. In his opinion it would be better at once to abandon those settlements where the conditions of labour are unfavourable and to start afresh in better chosen localities than to persevere in the up-hill, and probably hopeless, task of attempting to settle a criminal tribe under conditions where they cannot secure a comfortable living and where the temptation to revert to crime, with its combination of danger, excitement and occasional large profits, is irresistible. We may note here in passing that large numbers of fresh settlers should never be allowed to be sent into a settlement without previous consultation with the Manager as to whether he can find work for them. We shall return to the question of the selection of industries for criminal tribes after noticing those settlements in the Punjab which we were able to visit.

The Punjab, Dhariwal Settlement.

661. In the Punjab, the first criminal settlement we visited was that at Dhariwal and people there are provided with employment in the Dhariwal woollen mills. The population is about 1,800 of whom 700 are males, 500 females and the rest children. The inmates are drawn from the Sansi, Kuchband and Nat Sansi tribes. The settlement has not been very healthy, the site being low and damp. The people employed in the mill are as far as possible put upon piecework, the lowest rate being 7 annas per diem, and this rate would only apply in the case of men well below the ordinary standard of physique. In 1919, the average earnings per diem were males 6 annas 9 pies, females 5 annas, and children 2 annas 8 pies, but the rates have since been raised. The mils also provide wheat-flour and issue clothing at concession rates. The

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settlers appear to be fairly well-to-do having as much as Rs. 1,600 in the savings bank and Rs. 1,100 in the War loan ; but, in spite of this fact, the people did not seem to be altogether contented owing to the absence, in many cases, of the female members of the family and in some cases of the children. The mill authorities are gradually becoming satisfied with the quality of the labour done and we were assured that the younger members of the community were doing extremely well.

The Punjab, Moghalpura Settlement.

662. We may next mention the two settlements at Moghalpura near Lahore. One of these settlements is composed of Sansis and Bhedkuts and is under direct government control. The population is about 650 of whom 330 are males, 120 females, and 200 children. The men are employed in the railway workshops and the wages paid are good. There is little absconding which may be due to the fact that, as we were repeatedly assured, in the Punjab an absconder has but a small chance of not being caught by the police, but we received many complaints from the inmates who were in numerous cases without their families. The second settlement composed of Baurias has a population of about 330. The men in this case are also employed in the railway workshops, but the women appear to be unemployed. The settlement is nominally under the Sikh Khalsa Diwan, but the whole cost is borne by the Government, all that the Khalsa Diwan does being to nominate the Assistant Superintendent and to pay a religious teacher at Rs. 8 per mensem. Complaints were made here similar to those which we received from the Sansis in the adjoining settlement.

The Punjab, Okara Settlement.

663. A settlement of a different type is that of Okara situated in the Punjab colony area. This settlement is under the Anjuman-i-Islamia but the contribution of that body, apart from a lump contribution of Rs. 100 towards the cost of building a mosque, appears to consist of a payment of Rs. 8 per mensem to a religious teacher who also keeps a small school. The population there was about 350 composed of Bhats, Harnis and Pakhiwaras. There were 105 males, 80 females and 159 children. Each family has been given an allotment of 10 acres of land, and as the income from a single harvest is said to be about Rs. 500, and as the land is cropped twice per annum, the position of the settlers at this settlement is extremely favourable. They possess comfortable dwellings with considerable numbers of cattle and we received no complaints nor is there any absconding. The contrast between this settlement, where the people were comfortably settled with their families, and those at Moghalpura and Dhariwal, where single men were largely in evidence, was very marked.

The Punjab, Amritsar Settlement.

664. The last settlement to be noticed in the Punjab is the so-called Reformatory Settlement near Amritsar. This is under direct government management and the settlers belong to different tribes and include the more intractable individuals in the various settlements of the Province. The population at the time of our visit was about 970, comprising 577 males,

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200 females and 193 children. Most of the men are employed in the mills in Amritsar where the pay is good, but the worst characters are not allowed to go out of the settlement and are occupied therein on making durries. There is a considerable amount of absconding and on our visit to the settlement we were overwhelmed with complaints and requests for release. It was quite evident that the people in this place are very far from being contented and it did not appear that this settlement was in any way more reformatory than any other, though the inmates are under more strict guard here than elsewhere.

Commitment to settlements should be by gangs, not by individuals.

665. In most of the settlements for criminal tribes which we visited in other Provinces of India, the method generally adopted has been, so far as we learnt, to commit to the criminal settlement either a whole tribe or a section of a tribe, or a whole gang, if the gang was a wandering one. A few individuals might be exempted, but, as a general rule, the procedure has been to deal with the people collectively, so that entire groups have been selected for settlement and the family organisation has been maintained. We recommend that this policy should be adhered to and that commitment to settlements should be, so far as possible, by gangs and not by individuals. In some of the settlements in the Punjab, however, and in a single settlement, that at Khanapur, in Bombay, a different method has been followed. In these cases the persons placed in the settlement have been selected individually. The procedure by tribes or gangs has been abandoned, and even the family-tie has not been respected, single men alone being sent into the settlements, it being left to the option of the women and children to follow or not as they saw fit. The plan adopted in the Punjab has been for the police to submit to the Officer in charge of Criminal Settlements the names of those individuals who were recommended for removal to a criminal settlement. No inquiry, beyond an examination of the grounds alleged by the police in support of their recommendation, was made and the names of the persons selected were then submitted to the local Government for an order under section 16 of the Act. In Bombay, the recommendations were submitted by the police in the same way to the Officer in charge of Criminal Tribes but they were carefully examined by him and he held an informal enquiry before recommending committal to the settlement.

Dangers of committing individuals to settlements.

666. That this method of committing individuals to a criminal tribes' settlement is legal appears to result from the terms of clause (3) of section 2 of the Act, and from the reference to "any part" of a criminal tribe in section 16. As an individual is a part of a tribe, it follows apparently that an individual can be selected for settlement. Whether this was contemplated by the framers of the Act or not, the practical effect of such a provision of the law appears to us to be beyond doubt. If it is within the power of the police to recommend that any individual member of a registered tribe be selected for removal to a settlement, where he is detained for an unlimited period, the power of blackmail placed in the hands of the subordinate

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officials is almost without limit. Any police subordinate can go to any resident in the village and threaten him with removal unless a sufficient payment is made. Similarly, it is open to any one who has a grudge against a neighbour, a quarrel about land or boundaries, an intrigue with a wife or the like, to bribe the police to make a report that this neighbour is given to crime and should be deported and placed in a criminal settlement. In the case of the men in the Khanapur Settlement of Bombay, Mr. Starte assured us that he cannot recall a single case in which a man has been placed in the settlement without his having been actually convicted of crime. In the Punjab, however, the case was wholly different : out of the 701 males in the Dhariwal Settlement, only 130 have convictions on record against them. Rai Bahadur Pandit Hari Kishen Kaul, who was Deputy Commissioner in charge of Criminal Tribes from January 1917 to October 1919, and under whose administration this system has existed, directly defended the method above described on the ground that not one in twenty of those members of criminal tribes who commit crime is convicted. On the other hand, his successor in the charge of criminal tribes, Sardar Hari Singh, takes a totally different view and is of opinion that out of the 3,500 men confined in the settlements, a large number are innocent and ought to be released.

Necessity of formal inquiry if individuals are committed.

667. Without presuming to decide between these conflicting opinions, we have no hesitation in coming to the conclusion that the system under which a man can be arrested and shut up in a settlement for an indefinite period of time without any form of inquiry and without any opportunity of making a defence, or even knowing the grounds on which the action is based, is thoroughly indefensible. We are strongly of opinion that before any individual is dealt with under sections 11 or 16 of the Act there ought to be a formal inquiry of which the person concerned should be given full notice, and at which he should be informed of the case against him and given ample opportunity of adducing evidence to rebut it. The exact manner in which such an inquiry should be provided for is a matter of some difficulty. A possible method would be to amend section 123 of the Criminal Procedure Code, so as to enable a court holding an inquiry under Chapter VIII of the Code to order commitment to a criminal settlement in lieu either of security, or of imprisonment in jail in default of security. Whatever may be the exact method selected, we regard a formal inquiry to be essential if the Criminal Tribes Act is not to be liable to conversion into an engine of oppression when individuals and not tribes or gangs are dealt with. When the question is not that of an individual but of a tribe or gang, we understand that a full and regular inquiry is held before a recommendation is submitted to the Government of India under section 11 of the Act, but that no formal inquiry takes place.

Official supervision and control essential.

668. When settlements for criminal tribes are called into existence in any Province, it is, in our opinion, very essential that proper provision should be made for adequate official supervision and control, to whatever hands the immediate management of the settlement may be entrusted. The district magistrate is not always able, amidst the numerous duties falling upon him, to exercise this control and supervision, and wherever any considerable number of settlements exists we think that, in the interests of the prosecution of a uniform policy, an

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officer of some seniority should be appointed to supervise generally the working of the Act. This has already been done in Bombay, Madras, the United Provinces and the Punjab.

Differing opinions as to personnel of management.

669. Whether the actual management of the settlements should be retained in the hands of government officers or should be entrusted to private agency is a point on which differing views have been expressed. The Madras Government have expressed the opinion that there should always be some religious or philanthropic agency attached to each settlement, if not actually in charge of it. Mr. Starte of Bombay thinks that it is useful to combine both government and private control, though as regards the former he admits that one of his greatest difficulties has been to find suitable men for the post of manager. He adds that to exclude voluntary agencies and to attempt to control all settlements by direct government management would lead to disaster. We accept Mr. Starte's opinion, but we think that two further points should be kept in view; namely, first, that in selecting the agency for management preference should, if possible, be given to persons of the same religious faith as the tribe proposed to be included in the settlement; and secondly, that if any person who is in a settlement under private management wishes to be transferred to a settlement under government management, he should have a well-understood right to claim such transfer. At the same time, we are strongly of opinion that it would be unwise, at any rate at present, to place any embargo on the employment of Christian agency in the management of these settlements for criminal tribes. It is to the self-sacrificing efforts of many missionary bodies and of the Salvation Army that these tribes owe a great part of what has been accomplished for their advancement. Hitherto the great Hindu and Muhammadan communities have in the main failed to acknowledge any responsibility in regard to these outcaste and depressed criminal tribes and where, as in the United Provinces and the Punjab, direct efforts have been made to enlist the assistance of bodies belonging to the Hindu and Muhammadan communities, the results have not been very encouraging. But it is possible that, with the political awakening of India, better progress will be made in future, and we certainly think that all reasonable encouragement should be given by local Governments to anybody which is ready to come forward.

Necessary qualifications of settlement managers.

670. It is in any case very essential that whoever is placed in charge as manager or superintendent of a settlement for criminal tribes should possess a good knowledge of the language of the people he has to deal with, and a sufficient acquaintance with Indian manners and customs generally. The appointment of persons totally ignorant alike of the manners, customs and language of the people to the charge of a criminal settlement containing several hundreds of men, women and children needs only to be mentioned to be condemned. Such a person, however well-meaning, is entirely at the mercy of the interpreter on whom he is compelled to rely for the purpose of communicating with the settlers, and his power to influence them individually is equally limited. For similar reasons the practice followed too often by the Salvation Army of transferring their officers from one

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language area to another is much to be deprecated. We found at one settlement in the Madras Presidency an officer who had spent some years in the Punjab, where he had acquired a sufficient knowledge of the local vernacular. He was now engaged in trying to learn Telugu, a language as different as Russian is from Spanish. It seems to us that such transfers must involve much loss of efficiency. We understand that the Salvation Army has now divided India into three main commands and we trust that the necessity for these transfers will thus be obviated.

Objections to removal of tribes to distant regions.

671. But if the transfer of officers in charge of settlements from one language area to another is inexpedient, still more objectionable is the proposal which has more than once been put forward to transfer criminal tribes themselves to distant Provinces and to fresh language areas. In a memorandum forwarded with his letter to the Government of India, dated 15th August 1916, Commissioner F. Booth-Tucker of the Salvation Army suggested the sending of criminal tribes to Mesopotamia or to labour in the tea gardens of India. A few months earlier he had made a specific proposal for the transfer of 300 Sansias from the Bundi State in Rajputana to Assam, but this proposal was negatived. We think it necessary to record our opinion that the policy then advocated by Commissioner Booth-Tucker was entirely mistaken. In our opinion the removal of a criminal tribe to any Province or district so distant from its home as to be practically a foreign country, or to a language area different from its own is generally harmful and should not be permitted. The Indian is strongly attached to his local surroundings and is usually greatly affected and depressed by transplantation to fresh climatic and other conditions. Experience has shown that a transfer of even a hundred miles makes a tribe discontented and unwilling to settle down. In the Bombay Presidency it is usual to ask a gang or tribe to select the settlement where they would like to be placed and we commend this procedure for general adoption. It is quite a mistaken idea to suppose that if a criminal tribe is to be successfully settled down and eventually absorbed in the free population, its wishes and preferences can be wholly overlooked or neglected. In order to produce the maximum benefit with the least expenditure of time and energy and with as much avoidance as possible of the infliction of unnecessary pain and discomfort, such heroic measures as the transfer of a tribe to strange countries and foreign surroundings should be carefully avoided.

Separation of children from parents ordinarily to be avoided.

672. We are also unable to approve another proposal for which the Salvation Army has made itself responsible, namely, the proposal that "up to the farthest extent to which it is possible to go the children of members of criminal tribes should be separated from their parents." At first sight, there is something plausible about the idea of saving the younger generation from being corrupted by their parents, but further consideration soon shows that this view is wrong. In the first place, the members of the criminal tribes are, like all Indians, intensely attached to their children and forcible separation would be an act of inhumanity which it would be hard to justify except on grounds of unavoidable necessity. In the second place,

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such separation would have so perturbing an effect on the adult members of the tribe as to destroy any hope of influencing them for good during the present generation. In the next place, experience all over the world is tending towards the view that home life is superior to life in an institution, and that, unless the parents are entirely depraved, the children should not be taken away from them. In the case of these tribes, whose criminality is, as has been suggested, largely a matter of economic condition, and also a hereditary occupation, it is quite a mistake to suppose that the parents are necessarily depraved. Cases where the parents are in jail or are of notoriously bad character or where the children themselves show criminal tendencies would, of course, require to be specially considered. Lastly, it would be a most short-sighted policy to deprive the settlers of their children, because the children are often found to exercise a valuable humanising and civilising influence on the parents. The evidence which we have received on this subject is most convincing and we have no hesitation in condemning any proposal for the wholesale separation of the children from their parents.

The boarding house system for children.

673. A modified form of his proposal is the idea of a boarding house situated in close proximity to the settlement where the children may reside but with opportunity to the parents to see them from time to time. This scheme is doubtless less of an evil than to carry the children away to some distant institution, but, nevertheless, we are unable to approve of the idea. It is open to many of the objections already urged against complete separation. Furthermore, its adoption would impose enormous expenditure on the State. On the whole, we are quite convinced that the best and most natural plan is, as a rule, to leave the child in its home, trusting to the effect of other influences to produce gradual amelioration of the standards of right and wrong.

Education and industrial training.

674. One of the chief of these influences is education, which should certainly be steadily insisted on. From the visits which we paid to the schools in the settlements we are convinced that the children of the criminal tribes are singularly amenable to education and they are said to show a high average of intelligence. It is not ordinarily necessary to carry education beyond the elementary stage, but boys and girls of exceptional promise should be helped to go further in order that they may furnish a supply of teachers for the next generation. We are strongly of opinion that regular provision should be made for the teaching of those trades by which it is most likely that the children will be able to earn their living successfully. This is one of the most hopeful methods of reclaiming the younger generation. Thus at Sitanagaram in Madras instruction in stone mason's work should be provided, as is done at Bijapur, while carpentry always furnishes a valuable training to hand and eye even if the boy is not likely himself to follow the trade of a carpenter.

Medical aid.

675. The provision of adequate medical relief is a duty necessarily devolving on the State which has placed the settlers in the settlement and the local conditions of each case will decide what arrangements are necessary.

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It is also desirable that before the location of any settlement is decided upon, its suitability from a hygienic point of view should be carefully considered. The low birth rate in some settlements may possibly be due to the prevalence of malaria.

Registration of children usually not required.

676. We think it should be made a general rule that no child, whether brought into, or born in, a settlement, should be registered as a member of the criminal tribe unless he has shown by crime or other misconduct that he is of a character requiring registration. The practice of automatically bringing every child on the register should, we think, be formally prohibited. If children are not registered they should be free as they grow up to leave the settlement and settle down wherever they like. In this way the tribe or gang may eventually be absorbed in the general community. To assist this process it may sometimes be desirable that the caste-name should be changed, though we cannot say we expect much from this expedient.

Necessity of finding employment for settlers.

677. Some remarks on the question of employment have already been made. It seems to be beyond question that the manager or superintendent must hold himself responsible for the due provision of work for his people and that the work must be so arranged as to furnish a reasonable degree of comfort for the worker. How this is to be done is a question that can only be decided with reference to the local conditions of each settlement. The possibility of providing or finding employment should be carefully considered before the locality of any settlement is decided upon, it being recognised that upon the supply of suitable labour will largely depend the failure or success of the settlement.

Comparative advantages of various kinds of employment.

678. Some authorities, notably those of the Salvation Army, have generally favoured a self-contained method with all labour provided within the settlement itself. The objection to this method is the extreme difficulty of finding adequate and remunerative employment for a large body of men and women. It has yet to be proved that silk-worm culture will be self-supporting, except as an auxiliary to other industries. The objections to reliance merely on hand-loom weaving are illustrated by the experience at Moradabad and Najibabad where the average income earned amounted to such inadequate amounts as Rs. 3 or Rs. 4 per mensem. The most successful settlements in India are those where labour is found in some large and neighbouring commercial undertaking, such as a mill, a sugar factory or a distillery. Agriculture is, no doubt, a suitable occupation under favourable conditions, as at Okara or in a less degree at Stuartpuram, but the amount of suitable land is everywhere limited, and this method of employment cannot often be adopted. Moreover, it is useless to expect a class of untrained and inexpert agriculturists to extract a living out of barren dry soil on which not even the regular villager could live. If agriculture is to be relied on, an adequate area of good land must be provided and, if possible, security against the vicissitudes of the season should be added in the shape of a well or of irrigational facilities. Ordinary cooly labour on roads, or in stone breaking is a less satisfactory

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method of occupation on account of its precarious and uncertain character but it has proved fairly successful in Bombay. Finally, the charge against the members of the criminal tribes that their labour is bad and inefficient has been brought forward by several managers of settlements. We are inclined to think that this represents an initial stage which the people would soon get beyond if they are treated well and given a motive for improvement. Mr. Weth of Kulasekharapatnam, the mill managers at Dhariwal, and the Sholapur mill authorities were all of opinion that the quality of the labour, though poor at first, gradually improved until it was up to a normal standard. Where outturn is poor the effect of a bonus for increased production might be tried. At one settlement we were told that an experiment of this kind has been very successful.

Guarding and security of settlements.

679. The question of the maintenance of order and discipline inside a settlement raises matters of considerable importance and difficulty. Much will depend in this respect, as in all other respects, on the individual character of the manager. A man of vigorous and commanding personality will maintain order where weaker men would fail. It is essential, however, that he should receive support from the courts when it becomes necessary to prosecute offenders or absconders before them. It is generally agreed that it is not desirable to have police within a settlement and that the less they have to do with the settlers the better. It has ordinarily been found possible to enlist the service of trustworthy members of the tribe or gang to act as watchmen or guards. This, however, does not militate against the presence of a police patrol outside the settlement for the protection of property in the neighbourhood. But the more serious question is what is to be done with the small number of incorrigible persons who are to be found in all communities. These persons often secretly instigate crimes or foment trouble without themselves taking any active share in the disorder and it is therefore impossible to deal with them by way of prosecution. There is a large body of opinion that what is needed for persons of this class is a special or penal settlement, something midway between an ordinary settlement and a jail, where they would be brought under strict discipline and generally guarded with more rigour. In these special settlements labour would ordinarily be provided on the premises and adequate steps should be taken to prevent escape. Release therefrom and return to a normal settlement would depend on the conduct of the persons concerned. Any person sent to such a settlement would be allowed to be accompanied by his wife but no child over five should accompany him. The older children should be sent to cottage homes organised for the purpose, where they can be brought up whilst their parents are in the special or penal settlement. We are inclined to think that cottage homes are to be preferred to a large boarding school, as more closely approximating to domestic life.

Final release from settlements.

680. The circumstances in which final and complete release from any settlement can be attained are not very clearly explained in the existing law. We certainly think it is desirable that the procedure under which such release

can be obtained should be definitely laid down in the Act or in the rules under it. At present, the only procedure appears to consist of a pass holding good for a longer or shorter period, but as this involves continued reports to village officers or other authorities it hardly answers the object we have in view which is the entire removal of restrictions so that the man is completely restored to the free community.

Periodical conferences of criminal tribes officers recommended.

681. We think that, as in the case of Inspectors-general of Prisons, it would be very useful if the officers in charge of criminal tribes were allowed to meet once in every two or three years and to discuss problems, compare methods and exchange views and experience. Such a meeting need cause little interruption of work and little expense if a central meeting place is selected. Finally, we think it is desirable that every officer in charge of the criminal tribes of a Province should be furnished with a small library of books bearing on this subject and analogous questions, probation, the treatment of the child criminal, reformatories and the like.

Absorption of settlers into the general community the final aim.

682. From the foregoing remarks the views which we take of the settlements formed under Act III of 1911 will be generally apparent. We think it is very important that they should not be allowed to degenerate into a novel type of jail where members of the criminal tribes can be locked up indefinitely without the usual formalities of a trial. There was perhaps at first a tendency to regard them rather from this point of view, as a useful police measure for the prevention of crime. That view has, however, gradually altered. Through the influence of officials, of many missionary bodies which have generously assisted and last, but not least, of the Salvation Army, which although we differ from its views on some subjects, possesses the special merit of having come forward as a pioneer in the operations under the Act and has thrown itself heart and soul into the work, it is now recognised that the true aim is the reformation of the people in the settlements by a combination of economic, religious, moral and educational agencies. The result ultimately to be hoped for is the absorption of the settlers into the general body of the community, when the settlement, having served its purpose, will disappear. This ultimate aim should, we think, be clearly borne in mind by all who are engaged in this work, and whenever a new settlement is planned or an existing one remodelled it should be so located, arranged and directed as to promote this final result.

CHAPTER XXIII.

SUMMARY OF RECOMMENDATIONS.

683. The following is a summary of our recommendations :—

(*a*) CHAPTER III.—GENERAL PROPOSITIONS AND SCHEME OF REPORT.

(1) As far as possible, the superintendence of prisons should be in the hands of trained whole-time experts, (paragraph 16).

(2) The prison staff, from the jailor down to the warder, should be recruited with care, properly trained, and paid a salary sufficient to secure and retain faithful service, (paragraph 17).

(3) It is essential to provide that prisoners in jail shall be so classified and separated that the younger or less experienced shall not be contaminated and rendered worse by communication and association with the older or more hardened offenders, (paragraph 18).

(4) Prisoners, while in prison, should be brought under such influences as will not only deter them from committing further crime, but will also have a reforming influence on their character, (paragraph 19).

(5) It is very desirable, as far as practicable, to help such prisoners as may need assistance on their release from prison, so that they may be given a reasonable chance of securing an honest living, (paragraph 20).

(6) All possible measures should be taken to avoid commitment to prison, when any other course can be followed without prejudice to the public interest, (paragraph 21).

(7) The question of reducing the economic waste which is involved in imprisonment, by providing for the revision of sentences in suitable cases after a certain minimum period has been undergone, is worthy of close consideration with a view to its application to Indian conditions, (paragraph 22).

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(*b*) Chapter IV.—Inspection and Superintendence of Prisons.

(8) A strict limit should be imposed on the number of prisoners collected in one prison ; as a matter of principle the maximum should be fixed at 1,000, but for the present the maximum accommodation in any jail should not exceed 1,500, (paragraph 26).

(9) Subject to this maximum, the concentration of prisoners in central jails is desirable, (paragraph 27).

(10) In all Provinces the possibility of closing as many district jails as possible and of collecting prisoners in central jails should be carefully considered, (paragraph 27).

(11) In most Provinces a larger number of central jails is required, (paragraph 28).

(12) In future there should be only one class of central jail, (paragraph 29).

(13) Every central jail should be in charge of a whole-time superintendent, (paragraph 29).

(14) For all district jails with an average population of 300 and upwards there should be a whole-time superintendent, (paragraph 33).

(15) Superintendents of district jails may sometimes be selected from among jailors of central jails ; it should be understood that the officers so selected should be picked men and should not be promoted as a mere matter of seniority, (paragraph 34).

(16) Such promotion is more appropriate than the appointment of jailors to the post of deputy superintendent in charge of manufactures, which is not generally recommended, (paragraph 35, *vide* also paragraphs 80 and 212).

(17) Where no suitable jailor is available for the post of superintendent of a district jail, recourse should be had to other departments, military assistant surgeons being particularly suitable, (paragraph 36).

(18) A suitable rate of pay for a whole-time superintendent of a district jail would be Rs. 500, rising by annual increments of Rs. 25 to Rs. 750, (paragraph 37).

Chapter XXIII.—Summary of Recommendations.

(19) When the whole-time superintendent of a district jail is not recruited from the Medical Department, the civil surgeon, or the assistant surgeon attached to the civil hospital should be in medical charge of the jail, (paragraph 38).

(20) The allowance for the medical charge of a district jail, when entrusted to the civil surgeon, should be fixed at Rs. 100 a month for jails with an average population of 300 and under 500, and at Rs. 200 a month for jails with an average population of over 500, (paragraph 38).

(21) When both administrative and medical charge of a district jail is in the hands of the civil surgeon, the allowance should in all cases be Rs. 200 a month, (paragraph 38).

(22) When the civil surgeon in charge of a district jail proceeds on tour, the charge of the district jail should be entrusted to the assistant surgeon of the station, (paragraph 39).

(23) If, as a result of the Government of India Act, 1919, the civil surgeon's duties are largely reduced, it may be feasible for him to retain charge of the district jail, and he should in that case be placed, as far as possible, in the position of a whole-time superintendent and should reside at the jail, (paragraph 40).

(24) The present system of recruiting superintendents of central jails from the Indian Medical Service and of giving them combined executive and medical charge should be continued ; but a fair proportion of central jail superintendentships should be reserved for district jail superintendents, medical or non-medical, (paragraph 43).

(25) The post of Inspector-general of Prisons should be filled by selection from superintendents of central jails, whether medical or non-medical, (paragraph 44).

(26) With a view to securing uniformity in important matters of joail administration, there should be every alternate year a conference of the Inspectors-general of Prisons, to which selected jail superintendents and non-officials interested in jail administration might be invited, (paragraph 45).

(27) Before a person without previous jail service is appointed a whole-time superintendent he should receive a thorough training for six months under a selected central jail superintendent, (paragraph 46).

(28) The rules relating to study leave should be extended, so as to enable a jail superintendent to devote leave out of India to the study of jail questions in Europe or the United States of America, (paragraph 47).

Chapter XXIII.—Summary of Recommendations.

(29) Two Members* of the Committee consider that in every large jail there should, as in other countries, be a separate superintendent and a separate medical officer, (paragraph 48).

(30) Two other Members† of the Committee consider that in all cases it is desirable that the offices of superintendent and medical officer should be combined in one person, (paragraph 49).

(*c*). Chapter V.—Prison Establishment.

Section I.—Executive and Clerical Staff.

(31) The prison establishment should be divided into two branches, executive and clerical, which should be seperately recruited, (paragraph 50).

(32) The executive branch should be divided into two classes, jailors and deputy jailors, (paragraph 51).

(33) Recruitment for the executive branch should commence ordinarily at the grade of deputy jailor, though direct appointment to the grade of jailor should not be prohibited, (paragraph 51).

(34) It is essential for jailors to be acquainted with one of the chief vernaculars of the Province, (paragraph 51).

(35) The present pay of the jailor class is insufficient and should in no case be less than Rs. 200 and should rise to at least Rs. 450 a month, (paragraph 52).

(36) In future, jailors should be gazetted officers, (paragraph 52).

(37) The practice of ordering excessive recoveries from jailors should be prohibited, (paragraph 53).

(38) Jailors should, as far as possible, be relieved of clerical work, (paragraph 54).

*D. M. Dorai Rajah of Pudukottah and Mr. Mitchell-Innes.

†Colonel Jackson and Sir Walter Buchanan.

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(39) In all Provinces the rules relating to the jailor's duties should be carefully revised so as to restrict them within such limits as are possible of performance, (paragraph 54).

(40) Jailors should, as far as possible, be relieved of responsibility for the maintenance of accounts and registers, (paragraph 54).

(41) There should be two grades of deputy jailor, the lower starting on not less than Rs. 75 and rising to Rs. 100, the higher starting on Rs. 100 and rising to Rs. 150, (paragraph 55).

(42) A deputy jailor should be provided in every central and district jail, (paragraph 55).

(43) In the smaller district jails the deputy jailor should be required to perform the clerical duties of the jail, in addition to those which devolve on him as the jailor's executive assistant, (paragraph 55).

(44) The clerical staff of a jail should consist of clerks, accountants, and store-keepers, (paragraph 56).

(45) The head clerk should be competent to take over part of the jailor's duties and should be remunerated accordingly, (paragraph 56).

(46) The clerical staff should ordinarily not be eligible for promotion on the executive side and therefore their scale of pay should be sufficiently liberal to afford them a fair prospect of promotion, (paragraph 56).

(47) The members of the jail clerical staff should be eligible for transfer to the office of the Inspector-general, (paragraph 56).

(48) The rate of pay might commence at Rs. 50 and rise by grades to about Rs. 150 per mensem, with a few appointments on higher pay, (paragraph 56).

(49) There should be a store-keeper in every large manufacturing jail, (paragraph 56).

(50) In jails where any large number of Europeans is received, there should be an adequate staff of European warders, (paragraph 58).

(51) In each jail a recreation room should be provided for the staff, (paragraph 59).

(52) All officers newly employed in the Department should undergo a reasonable period of probation and training, (paragraph 60).

Chapter XXIII.—Summary of Recommendations.

(53) The rule in force in the United Provinces requiring the superior jail officers to be on duty at night as well as throughout the day should be modified, (paragraph 61).

Section II.—Warder Establishment.

(54) A better class of warder is essential and therefore a higher scale of pay should be granted, (paragraph 63).

(55) The scale of pay of the warder establishment should be distinctly better than that of the Police, (paragraph 64).

(56) Where local allowances are granted to other departments they should also be granted to the warder establishment, (paragraph 64).

(57) Family quarters should be provided at the jail for the whole staff, (paragraph 64).

(58) At least once in three years every warder and head warder should, if leave can be granted, be furnished with a return ticket to the railway station nearest his home, (paragraph 65).

(59) A small hospital ward should be provided outside each jail for the benefit of the warder staff, (paragraph 65).

(60) The security deposits of deceased warders should be paid promptly and free of cost to their legal representatives, (paragraph 65).

(61) Fines from warders and head warders should not be credited to the State, but should be held by the superintendent for the benefit of the warder establishment generally, (paragraph 65).

(62) There should be a chief warder in every central jail, (paragraph 66).

(63) The police should be relieved of any part of the guarding of central and district jails, (paragraph 67).

(64) Apart from any increase in work which may result from the recommendations of the Committee, the warder establishment is even now much undermanned and greatly needs strengthening, (paragraph 68).

(65) The strength of the warder establishment should be based on the average prison population, (paragraph 69).

Chapter XXIII.—Summary of Recommendations.

(66) A warder should not be required to do more than ten hours' work a day and should be allowed at least four nights in bed each week, (paragraph 69).

(67) A leave reserve should be maintained to prevent the frequent employment of temporary men, (paragraph 69).

(68) The circle reserve system existing in Bengal is worthy of consideration elsewhere, (paragraph 70).

(69) The duty of guarding condemned prisoners should be everywhere undertaken by the warder staff and not by the police, (paragraph 70).

Section III.—Medical Staff.

(70) A separate jail subordinate medical service is not advisable, but some improvement in the method of transferring sub-assistant surgeons to jail duty is desirable, (paragraphs 71 and 72).

(71) Every sub-assistant surgeon in the Medical Department who has done two years' service should be put on a roster from which men should be transferred for service in jails, (paragraph 73).

(72) Every sub-assistant surgeon so transferred should be placed unconditionally at the disposal of the Inspector-general of Prisons, by whom he should be posted and transferred and by whom, within certain limits, he should be liable to be punished, (paragraph 73).

(73) The sub-assistant surgeon should be transferred for service in the Jail Department for a definite period and should not be withdrawn without the consent of the Inspector-general of Prisons, (paragraph 73).

(74) No sub-assistant surgeon should ordinarily be liable to serve a second term in the Jail Department, (paragraph 73).

(75) Every sub-assistant surgeon serving in the Jail Department should be entitled to an allowance, to cover all the disabilities attached to jail service, varying from Rs. 30 to Rs. 70 per mensem according to grade, (paragraph 74).

(76) The Inspector-general of Prisons should be given a lump sum from which he may grant reward-allowances to sub-assistant surgeons, for special

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diligence or exceptionally good service, varying from Rs. 15 to Rs. 30 per mensem according to grade, (paragraph 74).

(77) In every jail, quarters not inferior to those provided in the Medical Department should be provided for the sub-assistant surgeons, (paragraph 74).

(78) There should generally be at least one whole-time medical subordinate in each central and district jail, (paragraph 75).

(79) The number of sub-assistant surgeons should vary with the population as follows :—

(*a*) district jails with an average population of not more than 800 should have one sub-assistant surgeon and one compounder ;

(*b*) district jails with an average population exceeding 800 should have two sub-assistant surgeons and one compounder ;

(*c*) central jails with an average population of not more than 1,500 should have two sub-assistant surgeons and one compounder ;

(*d*) central jails with an average population exceeding 1,500 should have three sub-assistant surgeons and one compounder ;

(*e*) no compounder is necessary in a jail with an average population below 300, (paragraph 76).

(80) The compounder should draw Rs. 5 in excess of the rate paid in the local hospital, (paragraph 76).

(81) Except in strictly professional matters, the sub-assistant surgeon should be subject to the authority of the jailor, (paragraph 77).

(82) Where a jail staff includes an assistant surgeon, he should receive allowances of corresponding amount to those recommended for the sub-assistant surgeon, (paragraph 79).

Section IV.—Technical Staff.

(83) In each large manufacturing jail an expert deputy superintendent, thoroughly trained in the special industry of the jail, should be employed, (paragraph 80).

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(84) Where local conditions render it impracticable to develop a single large industry, reliance must be placed on trade instructors, who should be paid salaries sufficient to secure really competent men, (paragraph 81).

(85) In addition to the professional staff already mentioned, the Inspector-general of Prisons should have a technical assistant, (paragraph 82).

(*d*) CHAPTER VI.—CONVICT OFFICERS.

(86) The extent to which convict officers have been employed in Indian prisons is excessive and should be reduced, (paragraph 84).

(87) The duty of guarding prisoners in cells and dormitories at night should be entrusted only to paid officials, and no convict officer should be outside his barrack at night, (paragraph 86).

(88) No convict officer should have *independent* charge of any file, gang, or other body of prisoners, (paragraph 87).

(89) There should in future be two grades of convict officers only, *viz.*, the convict night-watchman and the convict overseer, (paragraph 88).

(90) The rules regulating promotion to convict officer, and the duties and privileges of that class should be uniform in all Provinces, (paragraph 90).

(91) Convict officers employed in yards or barracks reserved for simple imprisonment prisoners should be drawn from the ranks of such prisoners. (paragraph 91).

(92) Non-habituals should not be employed as convict officers in charge of habituals, (paragraph 92).

(93) Habituals may be employed as convict night-watchmen in habitual barracks at night, but should not be promoted to any higher grade, (paragraph 92).

(94) Paid warders should be in charge of habitual gangs and workshops, (paragraph 92).

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(95) Convict officers of all grades should be exempt from liability to wear the ankle-ring and fetters, (paragraph 93).

(*e*) Chapter VII.—Classification and Separation of Prisoners.

Section I.—The Habitual Convict.

(96) Separate jails should be set apart for habitual prisoners, (paragraph 98).

(97) The existing definition of "habitual" needs revision, (paragraph 101).

(98) In the revised definition the existence of one or more previous convictions, or of an order to find security under sections 110 and 118, Criminal Procedure Code, should be an essential condition of classification as a habitual, (paragraph 102).

(99) The Inspector-general of Prisons should be empowered to confine with habituals any non-habituals of depraved or vicious character, (paragraphs 103 and 110).

(100) The existing rule as to the authorities empowered to classify as habitual should be retained, (paragraph 104).

(101) Every prisoner should have an opportunity of showing cause against classification as a habitual before it is carried out, (paragraph 105).

(102) Draft of revised definition of the term "habitual" and of the rules as to the classification of habituals, (paragraph 107).

(103) A member of a criminal tribe should not be classed as a habitual without evidence of previous crime, (paragraph 109).

(104) An escape or attempt to escape from jail should not constitute a prisoner a habitual, (paragraph 111).

(105) Habituals should not be excluded from the remission system, (paragraph 112).

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(106) The employment to be provided for habituals should be regulated in accordance with the principles laid down in Chapter IX of this Report, (paragraph 113).

(107) In the case of habituals, sleeping accommodation should be cellular, either *in toto* or to the extent of 30 per cent, (paragraph 114).

(108) The rule prohibiting the employment of any habitual as a convict officer should be maintained, subject to the exception mentioned in paragraph 92, (paragraph 115).

(109) A special prison should, if possible, be provided for female habituals, (paragraph 116).

Section II.—The Non-habitual Convict.

(110) All non-habitual prisoners should be divided into two classes (*a*) Star and (*b*) Ordinary, (paragraph 121).

(111) The effect of Star classification should extend to sleeping accommodation, parades and labour, (paragraph 122).

Section III.—Simple Imprisonment and Connected Questions.

(112) Simple imprisonment should be of two kinds, (*a*) without liability to labour, and (*b*) with liability to light labour, (paragraph 130).

(113) All simple imprisonment should be of class (*b*) unless a court, not being of a lower grade than that of a first class magistrate, otherwise orders, (paragraph 130).

(114) Class (*a*) prisoners who do not elect to work should receive non-labouring diet, while other simple imprisonment prisoners should receive labouring diet, (paragraph 130).

(115) Except in regard to diet and remission, the existing rules regarding simple imprisonment should apply to both classes, (paragraph 130).

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(116) Both classes should be allowed to possess and use their own books, in addition to those borrowed from the prison library, (paragraph 130).

(117) Any rule requiring a simple imprisonment prisoner. who elects to labour to wear prison clothes should be cancelled, (paragraph 130).

(118) Where the usual scales of diet, clothing, bedding or labour are so unsuitable as injuriously to affect the health of any prisoner the medical officer should have power to recommend such modifications as he may consider necessary, (paragraph 131).

(119) No special treatment beyond that suggested in paragraphs 130 and 131 is necessary for, or should be granted to, political offenders, (paragraph 132).

(*f*) Chapter VIII.—Separation at Night.

LIBRARY OF THE BOMBAY BRANCH OF THE ROYAL ASIATIC SOCIETY.

Section I.—Introductory.

(120) The cubicles and cages at present in use in some Provinces are objectionable and should be removed, (paragraph 135).

(121) In most Provinces the existing supply of cells is insufficient and should be increased, so as to provide from 25 to 30 per cent of cells in all jails, both for males and females, (paragraph 136).

Section II.—The Opinion of the Members in favour of the Principle of Association at Night.*

(122) It is not necessary or desirable to confine in cells at night all prisoners during the whole term of their sentence, (paragraph 140).

(123) The provision of cells for from 25 to 30 per cent of the population of a jail will be sufficient, (paragraph 140).

* Colonel Jackson, Sir Walter Buchanan and D. M. Dorai Rajah of Pudukottah.

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(124) The cells should be of a much better type than those now existing, (paragraph 146).

(125) General jail discipline methods should be based on what is necessary to maintain a reasonable standard of discipline and exaction of labour from the average fairly conducted prisoner, (paragraph 147).

(126) To shut up a prisoner in a cell from 6 o'clock every evening till 6 o'clock the next morning for years together is an unnatural proceeding (paragraph 148).

(127) It is important that the idle time between 5-30 P.M. and the hour of sleep should be fully occupied by education, reading, etc., (paragraph 149).

(128) It is absolutely wrong to confine prisoners during the night for prolonged periods in cells in the Punjab, Sind (except Karachi) and in many other places in India, (paragraph 150).

(129) To recommend the adoption of cells with a motive of deterrence and severity would be contrary to the spirit and trend of the other recommendations made by the Committee, (paragraph 151).

(130) If the recommendations of the Committee regarding the classification of prisoners be carried out, there will be very little risk of contamination in association sleeping wards, (paragraph 152).

(131) If the sleeping wards are properly patrolled and contain not more than forty prisoners each, there is little risk of unnatural vice, (paragraph 153).

Section III.—The Opinion of the Members in favour of the Principle of Separation at Night.*

(132) The provision of separate sleeping accommodation for each prisoner at night should be regarded as an essential principle of jail administration, (paragraph 162).

(133) The provision of separate sleeping accommodation at night should not be confused with the cellular system in force in Belgium and other continental countries, which is not recommended, (paragraph 163).

* Sir Alexander Cardew and Mr. Mitchell-Innes.

Chapter XXIII.—Summary of Recommendations.

(134) What is advocated is the British system, which confines prisoners at night in separate cells while allowing labour outside the cells by day, (paragraph 164).

(135) The view that to require a prisoner to sleep separately at night will injure his health or impair his brain is contradicted by experience, (paragraph 176).

(136) The system of separation at night is more deterrent to the average convict than the association system, (paragraph 177).

(137) The system of separation at night has both a reformative and administrative value, because it reduces the risk of contamination and facilitates the separation of castes and classes, (paragraph 178).

(138) The classification of prisoners is by itself an inadequate safeguard against contamination, which the association system encourages, (paragraph 179).

(139) The view that, where association exists, the best prisoners will reform the worst is untenable, (paragraph 180).

(140) The system of separation at night largely prevents the danger of unnatural vice, (paragraph 181).

(141) The association system, unlike the separate system, gives opportunities for all kinds of irregularities, (paragraph 182).

(142) The provision of a recreation room in each barrack, as suggested by some members, for utilising the period between locking-up and sleeping time, is only a *pis aller* and is not recommended, (paragraph 183).

(143) The view that the system of separation at night does not endanger health is supported, not only by the Jail Conference of 1877, but also by many witnesses, (paragraph 184).

(144) An improved type of cell is desirable, (paragraph 185).

(145) It is a doubtful economy to continue to build prisons on a principle which renders possible the spread of corruption ; further, the guarding of cells is less expensive than the guarding of wards, (paragraph 186).

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(146) Separation for all prisoners at night is necessary, because (*i*) the principle is accepted in Great Britain, the only country which has shown a large and progressive reduction in crime, (*ii*) it has been proved to be feasible and beneficial in India, (*iii*) it largely prevents corrupting conversation and contamination ; (*iv*) it renders impossible unnatural vice, gambling and other abuses at night ; and (*v*) it is more deterrent than the association system, (paragraph 187).

Section IV.—The Opinion of the Member who favours separation at night for some Classes of Prisoners and Association for Other Classes.*

(147) It is unnatural to impose idleness and solitude on a man for two or three hours each day and such treatment may produce an ill effect on his outlook and character, (paragraph 188).

(148) Accommodation for habituals and short-term non-habituals should be completely cellular ; for long-term non-habituals cellular accommodation to the extent of 15 per cent is sufficient, (paragraph 188).

(149) Cells should be better ventilated, and the medical officer should have power to make alternative arrangements, when extremes of heat render it advisable, (paragraph 188).

(150) A certain number of cells should be sufficiently lighted to enable any literate prisoners to read between lock-up and sleeping time, (paragraph 188).

(*g*) CHAPTER IX.—JAIL LABOUR AND MANUFACTURES.

(151) In the selection of prison labour the main object to be kept in view should be the reformation of the criminal, (paragraph 191).

(152) The principal mode of employment for long-term prisoners should be intramural, (paragraphs 195 and 225).

* Sir James DuBoulay.

Chapter XXIII.—Summary of Recommendations.

(153) The greater benefit to the prisoner will be conferred by giving him instruction in up-to-date methods of labour, and so fitting him for free life under modern conditions, (paragraph 196).

(154) To enable this to be effectively carried out, it is necessary that, as far as possible, attention should be concentrated in each jail on one or two main industries, (paragraph 197).

(155) It is necessary to provide a market for the goods so produced and, therefore, jail industries should be adapted to meet the needs of the consuming departments of Government; those departments should be compelled to purchase articles of jail manufacture where they are similar in quality to, and not of greater price than, those obtainable in the open market, (paragraphs 198 and 210).

(156) To produce goods similar in quality to those obtainable in the open market, power-driven machinery in jails is essential, and the existing restrictions on its use should be withdrawn, (paragraph 202).

(157) The use of power machinery in jails is justifiable, because it enables the prisoner to be given the class of labour best calculated to interest and instruct him, and to train him to habits of industry and application, and because it increases production and tends to give increased relief to the tax-payer, (paragraphs 204 and 210).

(158) Jail manufactures should be carefully chosen so as to do the least possible injury to private enterprise, and with this object they should avoid competition with weak and unorganised trades or budding industries, and should be directed to those channels in which large and organised industries are already in existence, (paragraphs 204 and 210).

(159) Though sale to the general public cannot be prohibited, it should be reduced to a minimum, and jails should not issue public advertisements, (paragraph 210).

(160) There is no objection to the maintenance of price lists and catalogues of jail products; these should, as far as possible, be sold at a central depôt, (paragraph 210).

(161) The employment of large jail populations continuously on manual labour is often uneconomical and has a deadening effect on the prisoners. (paragraph 211).

(162) Expert supervision should be provided in every jail where prison manufactures are carried on on a large scale, (paragraph 212).

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(163) The price of jail-made articles should follow as closely as possible the market rate, (paragraph 213).

(164) In order to exhibit the true financial effect of jail manufacturing operations, annual statement XII A should be substituted for annual statement XIII, which should be abolished, (paragraph 213).

(165) An early opportunity should be taken, at the periodical conferences of Inspectors-general, to introduce a greater measure of uniformity in the tasks exacted in the various Provinces, (paragraph 214).

(166) The employment of convicts on local outdoor work for municipal or other local bodies should be discontinued, (paragraph 217).

(167) The employment of convicts on large public works should be attempted only when climatic conditions are favourable and when the work is concentrated at a single place and will last for at least ten years, (paragraph 219).

(168) When prisoners are employed on large public works, proper buildings should be erected for the accommodation of the prisoners, proper separation of habituals from casuals should be secured, and for the most part the ordinary discipline of a permanent jail should be adhered to, (paragraphs 220 and 221).

(169) Under the above conditions and safeguards, the construction of jail buildings is a suitable employment for convicts, (paragraph 222).

(170) Though agricultural prisons would be appropriate to India, the climatic and other conditions which must be fulfilled in order to make this method of employment a success, greatly restrict its application, (paragraphs 223 and 224).

(*h*) CHAPTER X.—PRISON DISCIPLINE.

Section I.—Prison Offences and Punishments.

(171) The principles established by the Conference of 1892 that every offence committed by a prisoner must be dealt with by the superintendent of the prison,

and not by any subordinate authority, and that every punishment must be recorded in the punishment book, should be maintained, (paragraph 226).

(172) The award of corporal punishment should be restricted to mutiny or incitement to mutiny, and to serious assaults on public servants or visitors, (paragraph 227).

(173) In every case of corporal punishment a special report (based on the record in the punishment book), should be promptly submitted to the Inspector-general of Prisons, (paragraph 227).

(174) In order to prevent undue laceration of the skin, a piece of thin cotton cloth soaked in some antiseptic solution should be spread over the buttocks of the prisoner during the infliction of the flogging, (paragraph 228).

(175) The "drawing stroke" which is calculated to lacerate the flesh, should be prohibited, (paragraph 228).

(176) The cane used in the infliction of corporal punishment should be half an inch in diameter, (paragraph 228).

(177) The punishment of "standing handcuffs" should only be inflicted :— (*a*) after a prisoner has been examined by the medical officer and pronounced to be fit to undergo the punishment ; (*b*) for not more than four consecutive days at one time and for not more than six hours per diem, with an interval of at least one hour after three hours have been undergone ; and (*c*) in cases where the prisoner has been guilty of repeated and wilful violations of any prison rule, and where, in fact, his conduct is evidently due to contumacy ; (paragraph 230).

(178) The maximum period for which link-fetters and bar-fetters can be continuously imposed should be reduced to three months in each case, (paragraph 231).

(179) The maximum period of separate confinement that may be awarded at one time should be reduced to three months, (paragraph 232).

(180) The prison punishment of solitary confinement should be abolished, (paragraph 232).

(181) No prisoner, while undergoing the punishment of penal diet, should be required to do either hard or medium labour, but he should be liable to perform such light form of labour, and for such number of hours daily, as the medical officer may, in each case, approve, (paragraph 233).

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(182) When a prisoner is placed, as a punishment, on some more irksome or severe form of labour, the period for which he is to be retained on this labour should be fixed, (paragraph 234).

(183) The following punishments (in addition to those mentioned in section 47 of the Prison Act) should not be awarded in combination for a single offence :—(*a*) penal diet with standing hand cuffs, (*b*) cross-bar fetters with standing hand cuffs, and (*c*) cross-bar fetters with bar fetters, (paragraph 235).

(184) The restrictions imposed by section 47 on the award of punishments in combination for a single offence should apply to the award of punishments in combination for more than one offence, if the award is made at the same time, (paragraph 235).

(185) The following punishments should not be carried out in combination, even when awarded at different times for different offences :—(*a*) penal diet with whipping, (*b*) penal diet with standing hand-cuffs, (*c*) standing hand-cuffs with cross-bar fetters, and (*d*) cross-bar fetters with bar-fetters, (paragraph 235).

(186) Talking should be an offence at all parades and at any time when forbidden by an officer of the prison ; and singing and loud talking should be an offence at all times, (paragraph 236).

(187) Certain minor amendments should be made in clauses (4), (5), (6), and (25) of the rules regarding offences, (paragraph 237).

Section II.—The Use of Irons as a Means of Restraint and for Security.

(188) The rules and practice of the United Provinces regarding the safe custody and fettering of convicts sentenced to transportation should be thoroughly revised, so as to bring them into conformity with those in force in other Provinces, (paragraph 238 to 241).

(189) Prisoners inside a jail should not be fettered as a means of restraint, except on the ground that they are dangerous or violent or have attempted to escape or made preparations for escape, (paragraph 242).

(190) If the superintendent imposes fetters on any prisoner as a means of restraint, he should make a written record of the fact, (paragraph 242).

(191) The use of fetters in the case of (*a*) prisoners employed on jail premises but outside the main gate, and (*b*) prisoners who are sent beyond the

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jail premises, should be avoided ; prisoners should not habitually be marched through the public streets in fetters, (paragraph 243).

(192) The use of the belchain should be prohibited, except as a purely temporary measure when men are placed in insecure huts or tents outside a jail, and even then should be restricted as far as possible, (paragraph 244).

(193) The practice in Burma of confining prisoners undergoing quarantine in a building outside the main wall so insecure as to necessitate the use of the belchain should be discontinued, (paragraph 245).

Section III.—Outbreaks and Escapes.

(194) The amount of reward for the recapture of an escaped prisoner should not depend on the length of the prisoner's sentence, but on the circumstances of the escape and recapture, (paragraph 246).

(195) The superintendent of a jail should have power to sanction a reward for recapture up to Rs. 100 in each case, and the Inspector-general of Prisons up to Rs. 250, (paragraph 246).

(*i*) CHAPTER XI.—REFORMATORY INFLUENCES IN PRISONS.

Section I.—Remission.

(196) Remission should be extended to sentences of six months and over, (paragraph 248).

(197) The amount of remission which an ordinary convict can earn should be two days a month for conduct and two days a month for industry, (paragraph 249).

(198) A prisoner who is unable to labour for reasons beyond his own control should, under certain conditions, be entitled to ordinary remission, (paragraph 250).

(199) Forfeiture of past remission, and exclusion from future remission, should be inflicted only with the sanction of the Inspector-general, (paragraph 251).

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(200) In the rule which entitles a prisoner to 15 days' extraordinary remission for a year's continuous good conduct, the period should count from the first day of the month following the date of the prisoner's last prison punishment or sentence ; and offences punished merely with a warning should not be regarded as interrupting such period of good conduct, (paragraph 252).

(201) It should be made quite clear that special remission may (with one exception) be granted, whether the prisoner is entitled to ordinary remission or not, (paragraph 253).

(202) The classification of life convicts for the purposes of the remission rules should be in all cases dealt with by the convicting court, (paragraph 254).

Section II.—Gratuities to Prisoners in Prison.

(203) A prisoner in jail has no right or claim to be paid for his labour, but as an incentive to industry should be granted a reward for extra work, (paragraph 258).

(204) This reward should take the form of a money gratuity for any outturn in excess of the fixed task, in proportion to the excess turned out, (paragraph 259).

(205) In certain cases a higher outturn should be demanded before gratuity can be earned, (paragraph 260).

(206) The superintendent should be empowered in certain circumstances to grant gratuity to any individual prisoner not on tasked work, (paragraph 261).

(207) The prisoner should be allowed to dispose of his gratuity at his discretion, subject to certain limitations, (paragraph 262).

(208) The experiment of allowing a prisoner to spend one half of his gratuity in buying, through the jail authorities, approved comforts should be tried in selected jails in each Province, (paragraph 263).

Section III.—Interviews and Letters.

(209) Interviews and letters are a valuable reformative influence and the rules on the subject should be made as liberal as possible, (paragraph 265).

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(210) The rules regarding interviews and letters should be uniform throughout India, (paragraph 267).

(211) A prisoner should be allowed, provided his conduct is good, to have an interview or to send and receive a letter once in three months, (paragraph 268).

(212) The superintendent of the jail should be invested with full discretion to allow interviews and letters more frequently whenever, in his opinion, sufficient reason exists, (paragraph 269).

(213) A properly constructed interview room should be constructed at or near the main gate in every jail, (paragraph 270).

Section IV.—Education, Prison Libraries and supply of Books and Periodicals.

(214) Provision for education should be made in all central and district jails, but such education should be restricted for the present to prisoners not over the age of 25, (paragraph 272).

(215) The education provided should not go beyond the elementary stage, and should, wherever possible, include a certain amount of manual training, (paragraph 273).

(216) If any prisoner desires to go beyond the elementary stage he should be furnished with the necessary books and given any assistance available, (paragraph 273).

(217) The hours of education should be so arranged as not to interfere with labour, (paragraph 273).

(218) Every central and district jail should contain a small library of books (both English and vernacular) suitable for issue to prisoners who can read, and lectures for prisoners should, if possible, be provided, (paragraph 274).

(219) Suggestions for recreation between lock-up and sleeping time, (paragraph 275).

(220) A female prisoner able to read should be allowed to get books from the jail library, (paragraph 276).

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Section V—Religious and Moral Instruction and Religious Observances in Prison.

(221) Endeavours should be made to provide religious and moral instruction for all prisoners in jail, (paragraph 279).

(222) A Hindu, Muhammadan, Buddhist or Christian minister should be appointed to every central and district jail, in which any considerable numbers of prisoners of those religions respectively are confined, and should, if necessary, be paid a retaining fee, (paragraph 280).

(223) Approved ministers of prisoners other than that of the appointed minister may be admitted, but no minister should be allowed to have access to any prisoner, who does not belong to his own persuasion, except on request of the prisoner and with the permission of the Inspector-general, (paragraphs 281 and 282).

(224) Religious buildings need not be provided in jails, but the local authorities should in each case make suitable arrangements to enable religious services to be held, (paragraph 283).

(225) Certain arrangements should be made to enable Muhammadans to fulfil their religious obligations, (paragraphs 285 and 286).

(226) Sikhs should be permitted to wear a turban in jail and to retain certain of their religious symbols, (paragraph 287).

(227) Interference with genuine religious or caste prejudices of prisoners should be avoided ; if a superintendent feels any doubt as to the validity of any plea advanced on religious grounds, he should refer the matter to the Inspector-General, (paragraph 288).

(*j*) Chapter XII.—Prison Hygiene and Medical Administration.

Section I.—Diet, Cooking, Distribution of Food and Connected Matters.

(228) The question whether the ration of rice should not be reduced to 20 ounces per diem should be considered in the light of Major McCay's researches, (paragraph 289).

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(229) The question whether the grain ration in any Province should exceed 20 ounces should also be considered, (paragraph 289).

(230) The *dal* ration should in no case exceed 5 ounces, and with certain exceptions should not exceed 4 ounces, (paragraph 289).

(231) The vegetable ration should be raised to 8 ounces per diem, (paragraph 289).

(232) The dietaries of all Provinces should be expressed in pounds and ounces avoirdupois, and the use of local measures should be discontinued, (paragraph 289).

(233) As much variety as possible in jail diet is desirable, (paragraph 290).

(234) The medical officer should be empowered to alter the dietary of an individual prisoner, but not of any class of prisoner, except in all emergency; if any such alteration in the dietary of any class of prisoners is made, an immediate report should be sent to the Inspector-general, (paragraph 291).

(235) Vegetables, when plentiful, should be stored for issue in the season, (paragraph 292).

(236) When vegetables have to be purchased, the free supply to the staff should cease, (paragraph 292).

(237) It is undesirable to lay down that the jailor shall pay, if vegetables have to be purchased, (paragraph 292).

(238) The cooking of the prisoners' food is almost as important for the maintenance of health as the composition of the dietary, (paragraph 293).

(239) Special attention should be paid to the sifting of the flour, the kneading of the dough, and the cooking of the cakes, (paragraph 293).

(204) The practice of a forenoon and afternoon meal, prevalent elsewhere, should be introduced in the Punjab, (paragraph 293).

(241) Food should be protected from flies and served to prisoners warm, (paragraph 294).

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(242) In each yard a place should be provided, in which prisoners can be fed, when it is too wet or too hot for them to eat their food in the open, (paragraph 295).

(243) A year's supply of the staple articles of rations should, if possible, be purchased at the cheapest season of the year, either by tender or by public auctions, (paragraph 296).

(244) Grain should be stored in bags and not in bins or pits, (paragraph 296).

Section II.—Clothing, Bedding and Connected Topics.

(245) Every prisoner should be provided with two sets of clothing; in the case of extra-mural gangs it may, in regions of heavy rainfall, be desirable to issue extra clothing during the rains, (paragraph 297).

(246) Every convict should be provided with a *langoti* as part of his prison suit, (paragraph 298).

(247) A towel should be supplied to each prisoner, (paragraph 299).

(248) Every male convict should be provided with trousers reaching to within four inches above the ankle, instead of with shorts, (paragraph 300).

(249) A distinctive mark should be woven into the clothing issued to the habitual, and the use of the iron wrist-ring should be discontinued, (paragraphs 301 and 302).

(250) The ankle-ring should also be abolished, except in the case of prisoners employed extramurally; (paragraph 302).

(251) The prisoner's ticket should be attached to a button on the left breast, the neck-ring at present in use being abolished, (paragraph 302).

(252) When a prisoner appears in court either as a witness or as an accused person, he should be in ordinary clothes, and he should not be produced in fetters except with the permission of the court, (paragraph 303).

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(253) Every prisoner in hospital should be given a proper mattress and a pillow, (paragraph 304).

(254) Hospital clothing and bedding should bear a distinctive mark, (paragraph 304).

Section III.—General Sanitary Arrangements.

(255) Wherever a municipal water supply has been introduced, the jail should be connected with it, (paragraph 306).

(256) Where possible, overhead bathing arrangements should be introduced, (paragraph 306).

(257) In every jail there should be sufficient latrine accommodation to provide one seat for every six men, and the partitions which divide the seats should be high enough to provide a reasonable degree of privacy, (paragraph 307).

(258) Every general latrine should have foot-rests, (paragraph 307).

(259) Water for ablution after resort to the latrine should be provided at or close to it, (paragraph 307).

(260) In all sleeping barracks a cage latrine separated from the ward is essential, (paragraph 307).

(261) Utensils in cells should invariably be provided with close-fitting covers, (paragraph 307).

(262) It is necessary to continue the trenching system of disposing of night-soil, but if flies are numerous in any jail the superintendent should at once take steps to ascertain whether they are coming from the night-soil trenches, (paragraph 308).

(263) A "Thresh" or other large steam disinfector should be installed in a large jail; "the Serbian barrel" or a similar device should be installed in other jails, (paragraph 309).

(264) Lighting arrangements in jails are generally inadequate; the question of their improvement should be examined in all Provinces and an electric light installation should, if possible, be provided for every central jail, (paragraph 310).

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Section IV.—Hospital Administration and the Care and Nursing of the Sick.

(265) Every jail hospital ought to be brought thoroughly up to date in respect of buildings and equipment, (paragraph 312).

(266) An up-to-date standard scale of hospital equipment should be drawn up in every Province in consultation with the provincial head of the Medical Department, (paragraph 313).

(267) Male nurses should be added to the establishment of every district and central jail, (paragraph 315).

(268) Where paid attendants are not provided at central jails, systematic steps should be taken to select and train suitable prisoners for the work of hospital orderlies ; and in the case of district jails trained and trustworthy convict orderlies should be sent down from the nearest central jail, (paragraph 316).

(269) Wherever possible, prisoners who are so seriously ill as to require medical aid and nursing at night should be kept in a separate ward, of which the sub-assistant surgeon on duty should have the key, (paragraph 317).

(270) Where there are two or more sub-assistant surgeons attached to a jail, one should sleep in the jail each night ; where there is only one sub-assistant surgeon, a telephone should be put up connecting his quarters with the jail, so that the hospital orderly on duty can ring him up, if necessary, (paragraph 317).

(271) More attention should be given to the advantage of removing the sick for a part of the day into the open air, (paragraph 318).

(272) The need for unremitting supervision over the patient's food should be constantly impressed upon all medical subordinates ; and, wherever possible, a professional cook should be employed to direct and instruct the convict cooks, (paragraph 319).

(273) Accommodation either in a special jail or in specially constructed wards at selected centres should be provided for such cases of tubercle as are fit for removal ; for other cases a small properly designed separate ward should be provided in every central and district jail, (paragraph 320).

(274) Prisoners suffering from such diseases as cannot adequately be dealt with in a jail hospital should be removed to the local civil hospital, and such cases of removal should at once be reported to the Inspector-general, (paragraph 321).

Chapter XXIII.—Summary of Recommendations.

(275) Every central and district jail hospital should be provided with (*a*) a small reference library of standard works on medicine and surgery, (*b*) a microscope, (*c*) an operating room and a dark room for eye work, (paragraph 322).

(276) Patients in hospital should be provided with a mattress and a pillow, and in the case of malaria patients mosquito curtains should be used, (paragraph 322).

(277) The medical officer should see that every prisoner takes such amount of exercise as may be necessary for his health, (paragraph 323).

(278) All prisoners, except those who are too ill, should be weighed once a fortnight, and a statement showing the results of weighments should be prepared, (paragraph 324).

Section V.—Overcrowding.

(279) It is the duty of every local Government to take prompt measures to prevent overcrowding and to relieve it when it occurs, (paragraph 326).

(280) In this connection the working capacity of a jail should be considered apart from the accommodation in hospital and from that for special classes of prisoners, (paragraph 334).

(281) Every prisoner should have a raised berth, measuring 6½ by 2¼ feet, 20 to 24 inches high in a lower storey and 6 inches high in an upper storey, (paragraph 335).

(282) In new barracks the standard superficial area for each prisoner should be not less than 45 square feet, but in existing barracks it should be the number of berths or the number of prisoners at 40 square feet per prisoner, whichever is less, (paragraph 336).

(*k*) Chapter XIII.—Insanity, Mental Deficiency and Abnormality.

(283) In addition to the type of lunacy which can be transferred to a lunatic asylum, there exist many lesser degrees and shades of mental abnormality, (paragraph 337).

Chapter XXIII.—Summary of Recommendations.

(284) The words "from birth or from an early age", which occur in the definition of a mental defective under the English Mental Deficiency Act, 1913, unnecessarily restrict the application of the definition, (paragraph 339).

(285) In each Province there should be established a special institution for mental defectives, as defined in the English Act, the words "from birth or from an early age" being omitted, (paragraph 340).

(286) Some Members of the Committee, whose views are contained in Appendices VII* and VIII†, would bring all persons who are in any way mentally abnormal within the scope of special action or legislation, (paragraph 341).

(287) The Members responsible for Appendix VII* advocate:—

(*i*) that all young adults and children who commit crime should, as far as feasible, be mentally examined by an expert, in order to ascertain whether they are mentally abnormal or not;

(*ii*) that all persons should be similarly examined before they are released on probation;

(*iii*) that all prisoners should be similarly examined before they are released on parole;

(*iv*) that all mentally defective and mentally abnormal prisoners should be sent to a special prison;

(*v*) that selected medical officers in the prison service should be sent to the United States to study the subject and the methods there in use; and

(*vi*) that, where a lunatic asylum is near a prison, the superintendent of the asylum should be appointed "consulting alienist" to the prison (paragraph 342).

(288) The Member† responsible for Appendix VIII concurs in proposals (*iii*) to (*vi*) above (Appendix VIII).

(289) The other Members of the Committee are opposed to these recommendations:—

*Colonel Jackson and Sir Walter Buchanan.
†Sir James DuBoulay.

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(1) because they involve acceptance of the views expressed in Appendix VII regarding mental abnormality,

(2) because these views would substitute obscure terms and doubtful tests for the clear terms and practical tests laid down in the English statute relating to mental defectives,

(3) because these views might have a dangerous influence on the doctrine of criminal responsibility, might prejudice the administration of criminal justice and might encourage malingering in jails.

They therefore recommend that action taken in India for the segregation of mental cases not of a certifiable character should be limited for the present to defectives, as defined in the English Mental Deficiency Act, 1913 (as proposed above to be amended), (paragraphs 343 to 350).

(*l*) CHAPTER XIV.—ASSISTANCE TO PRISONERS ON RELEASE.

(290) A central association for the assistance of released prisoners should be set up in the capital city of each Province; and local societies should be formed for each central or district jail outside the capital city, (paragraph 352).

(291) The societies should be mainly non-official in character, but the superintendent and medical officer of the prison and the sessions judge or magistrate of the district should be *ex-officio* members of the managing body of the local society, and the non-official visitors should be invited to join it, (paragraph 353).

(292) Financial assistance given to the societies from public funds should bear a certain proportion to the amount collected from the public; a statement of accounts should be submitted to Government each year through the central association, (paragraph 354).

(293) Each society should have an honorary secretary to conduct its correspondence, and paid agents to work in the prisons, (paragraph 355).

(294) The paid agents should have free entry to the prisons and access to all prisoners who are within, say, three months of their release, (paragraph 356).

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(295) Where necessary, a female agent should be employed for female prisoners, (paragraph 357).

(296) If homes, workshops or labour yards are started to assist ex-prisoners, the relief or employment thus afforded should be strictly temporary, (paragraph 358).

(297) As a rule any gratuity to the credit of a prisoner on discharge from prison should be handed over to the local prisoners' aid society for disbursement in the best interests of the prisoner, (paragraph 359).

(298) The prisoners' aid societies and the parole officers, whose appointment is suggested in Chapter XVI, paragraph 454, should work together as far as possible, (paragraph 360).

(*m*) Chapter XV.—Measures for Prevention of Committal to Prison.

Section I.—The Child-Offender.

(299) The definitions of child and young person embodied in the English Children Act, 1908, and in the Madras Children Act, 1920, should be adopted generally in India, *viz.*:—(*a*) a child means a person under the age of fourteen, and (*b*) a young person means a person who is fourteen but under sixteen, (paragraph 364).

(300) The commitment to prison of children and young persons, whether after conviction or while on remand or under trial, is contrary to public policy, and sentences of imprisonment should in the case of children and young persons be made illegal, as in England, (paragraph 367).

(301) Remand homes should, as far as possible, be provided for children and young persons under remand or pending trial or inquiry, (paragraph 368).

(302) When there is no remand home, the court should endeavour to make suitable arrangements for the custody of any child or young person who is under remand. If any court finds it unavoidable to commit a child or young person to prison for safe custody, it should at once submit a special report to the district magistrate on the subject, (paragraph 368).

(303) The creation of children's courts for the hearing of all cases against children and young persons is desirable, and the procedure in such courts should be as informal and as elastic as possible, (paragraphs 369 and 370).

Chapter XXIII.—Summary of Recommendations.

(304) Outside large towns it will not be possible to provide a special court, but every court dealing with a case against a child or a young person should sit at a special hour and, if possible, in a special place for the purpose, (paragraph 371).

(305) It is not advisable to bring children from long distances to be tried by a special magistrate; the local magistrate should try the case, (paragraph 371).

(306) In large towns like Calcutta the childern's court should be placed under a specially selected magistrate and should not be presided over in turn by a succession of changing magistrates, (paragraph 372).

(307) Full information should be collected before a final order regarding a child is made, and the case should generally be adjourned to enable this to be done, (paragraph 373).

(308) It is often desirable to leave a child-offender with his parents, if the home is at all a decent one, (paragraph 374).

(309) The law should be modified and made as elastic as possible, so as to enable the court to combine release on recognizances with fine or restitution and with probation, in whatever way the circumstances of the case render most suitable, (paragraph 374).

(310) Probation officers should be appointed to aid the courts in obtaining information about children and to supervise them after release, (paragraphs 373 and 375).

(311) Private persons, if suitable, may be used as volunteer probation officers, (paragraph 375).

(312) Such officers may at first be appointed only in the large towns, (paragraph 376).

(313) No definite educational qualifications should be insisted on, but men of good education should be selected and the pay should be liberal, (paragraph 376).

(314) It is important (*a*) not to give a probation officer too many cases at one time, (*b*) as a rule, not to place a child, who relapses into crime, again on probation, (paragraph 377).

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(315) Whipping as a court punishment is effective in only a small percentage of cases, and repeated whippings do no good, (paragraph 378).

(316) A separate reformatory should be provided for each of the larger Provinces, and is specially needed in Bengal, (paragraph 381).

(317) Reformatory schools should resemble ordinary schools and not jails, and should therefore not be located in old jail buildings ; they should not be near a jail, but should be in the country and in properly planned buildings on the cottage system, (paragraph 383).

(318) Each reformatory school should have a matron, (paragraph 383).

(319) Measures should be taken to keep in touch with the ex-pupils of reformatory schools, and information as to the after-career of these pupils should be systematically collected and placed on record, (paragraph 384).

(320) Defective children should not be sent to a reformatory school, but to a special institution, (paragraph 385).

(321) Legislation is required to deal with the case of non-criminal children living in criminal, vicious and immoral surroundings, or without proper guardians or homes, including the case of female children in danger of becoming prostitutes, (paragraph 386).

Section II.—The Adolescent Criminal.

(322) An adolescent means a person between the ages of sixteen and twenty-one, but power should be taken to extend the age to twenty-three, (paragraph 388).

(323) Adolescent offenders should not be sent to ordinary jails, but should be confined in separate jails or institutions to which no adult prisoners are sent, (paragraph 389).

(324) In order to supply information regarding the number of adolescents, column 4 B of the Annual Statement No. II should be divided into three sub-columns, dealing with prisoners of the ages, sixteen to twenty-one, twenty-two to thirty and thirty-one to forty, (paragraph 393).

(325) Adolescents guilty of grave crime should be kept in juvenile jails ; other adolescents should be sent to Special Institutions for adolescents, (paragraphs 394 and 395).

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(326) The Special Institutions for adolescents should be reformatory in character, (paragrahp 395).

(327) They should for the present be under the control of the Inspectors-general of Prisons, (paragraph 395).

(328) In the case of female adolescents, separation from adults should be arranged in ordinary jails until a Special Institution can be provided, (paragraph 396).

(329) The power to commit to a Special Institution for adolescents should be exercised by all first class magistrates and by any second class magistrate specially empowered, (paragraph 398).

(330) When an adolescent offender has been committed to an ordinary or a juvenile jail the superintendent of the jail may move the district magistrate to order the removal of the adolescent offender to a Special Institution for adolescents, (paragraph 399).

(331) If an adolescent in a Special Institution for adolescents is found to be incorrigible or to be exercising a bad influence, he should be placed before the district magistrate with a view to his transfer to a juvenile jail, and the district magistrate should have power to revise the period of detention ordered as the circumstances of the case may demand, (paragraph 400).

(332) Adolescents detained in Special Institutions for adolescents should be called "inmates" and as far as possible prison terminology should be avoided, (paragraph 401).

(333) The staff appointed to these Special Institutions for adolescents should be selected with special care, and should not be freely interchangeable with that of prisons, (paragraph 402).

(334) The dress of inmates in Special Institutions for adolescents should be of a uniform pattern but should not be the jail clothing of the Province, (paragraph 402).

(335) As the principal object of the Special Institutions for adolescents is the reformation of the inmates, all the details should be arranged to that end, (paragraphs 403 to 407).

(336) Mental defectives should not be admitted to these Special Institutions, but should be sent to a home for mental defectives, (paragraph 408).

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(337) For the maintenance of order and discipline in the Special Institution, summary powers of punishment should be conferred on the superintendent, (paragraph 409).

(338) The period of detention in a Special Institution for adolescents should vary from a minimum of three to a maximum of five years, followed by a further period of supervision, (paragraph 410).

(339) The English system of release on license should be adopted ; no adolescent should be so released until work has been found for him, (paragraph 411).

(340) The Inspector-general should have power to cancel a license, and the licensee should then be liable to be returned to the Special Institution to complete the period of detention to which he was liable under his original sentence, (paragraph 412).

(341) No adolescent who has relapsed into crime after completing a full period in a Special Institution should be a second time committed to such an institution, (paragraph 412).

(342) The system of after-care to be exercised over ex-inmates is one of the most important points connected with the scheme of Special Institutions, (paragraph 413).

(343) After-care associations should be formed and a committee of visitors, largely composed of non-officials who can assist in finding work for ex-inmates, should be constituted for each Institution, (paragraph 414).

(344) One or more official agents or parole officers, of the type mentioned in Chapter XVI, should be attached to each Institution, (paragraph 415).

(345) The finger prints of all adolescents sent to Special Institutions should be taken and sent to the Central Bureau, (paragraph 419).

(346) The system of registering criminals as "P. R." "P. R. T." or "K.D." should not be applied to any inmate or ex-inmate of a Special Institution for adolescents, (paragraph 419).

Section III.—Probation.

(347) The proposal to amend section 562, Criminal Procedure Code, by rendering it applicable to offences punishable with imprisonment for not more than

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three years and extending it to offences under any special or local law, and the other proposals on this subject of the Committee appointed to revise the Code of Criminal Procedure, are generally suitable, (paragraph 433).

(348) In deciding whether a case is suitable for release on probation, the whole of the circumstances should be taken into account, (paragraph 433).

(349) Power should be taken to require a person placed on probation to pay a fine, damages, or compensation for injury or loss caused, and to be subject to such conditions as may be included in the probation order, (paragraph 433).

(350) The court should have power to escheat a part of the recognizances of an offender who has broken the conditions of a probation order, while allowing him to remain on probation, (paragraph 433).

(351) Probation officers should be appointed as far as possible, and private individuals may also be recognised as probation workers, (paragraph 434).

(352) The Police should not be employed as probation officers, nor should they exercise supervision over, or interfere in any way with, a person placed on probation, (paragraph 434).

(353) The probation officer should make inquiries and report to the court regarding an offender's previous history and home life, before a probation order is made, (paragraph 435).

(354) The probation officer should not be liable to be called on to disclose, except to the court, the names of the informants from whom the information contained in his report was obtained, (paragraph 435).

(355) To assist the courts in selecting cases suitable for probation, a pamphlet explaining the rationale and working of the system should be drawn up, (paragraph 436).

(356) Persons who are mentally defective should not ordinarily be placed on probation, (paragraph 436).

Section IV.—Fines, Short Sentences and Other Points.

(357) Those sections of the Indian Penal Code, under which imprisonment must be awarded when a conviction occurs, should be amended so as to give discretion to the court, (paragraph 437).

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(358) The provisions of the Criminal Procedure Code regarding levy of fine should be amended, so as to make the grant of time ordinarily compulsory, to permit payment by instalments, to remove the limit of fifteen days laid down in Section 388 of the Criminal Procedure Code, and to require imprisonment for non-payment of fine to be awarded only by separate proceedings, (paragraph 438).

(359) Courts should be enabled to dispose of cases by the order "convicted and discharged with a warning," (paragraph 440).

(360) Sentences of imprisonment for less than twenty-eight days should be prohibited, (paragraph 444).

(*n*) Chapter XVI.—The Indeterminate Sentence.

(361) The sentence of every long-term prisoner should be brought under revision, as soon as the prisoner has served half the sentence in the case of the non-habitual, and two-thirds of the sentence in the case of the habitual, remission earned being counted in each case, (paragraph 453).

(362) The revision should be carried out by a Revising Board, composed of the Inspector-general of Prisons, the Sessions Judge and a non-official, (paragraph 454).

(363) Full information as to the prisoner's history, physical and mental condition, conduct and fitness for release should be collected and put before the Board, (paragraph 454).

(364) If the Revising Board recommends a prisoner's release, the local Government should decide whether to make an order under section 401, Criminal Procedure Code or not, (paragraph 454).

(365) If possible, prisoners released on parole should undergo some sort of intermediate or probationary stage, during which their fitness for final release could be tested and they themselves gradually habituated to freedom, (paragraph 456).

(366) In all cases, the release of a prisoner on parole should be made subject to conditions, breach of which would render him liable to be remanded to undergo the full original sentence, (paragraph 457).

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(367) The duty of seeing that a prisoner fulfils the conditions on which he was released should not be imposed upon the police or upon the village headman, but special officers, to be termed parole officers, should be appointed for the purpose, (paragraph 458).

(368) These parole officers should possess a good standard of education, though not necessarily a university degree, and should both protect and advise the released prisoner and report breaches of the conditions of release, (paragraph 458).

(369) When a prisoner is released, the Revising Board may suspend and set aside any order regarding him made under Section 565, Code of Criminal Procedure, (paragraph 459).

(370) If the scheme of revision of sentences here suggested is adopted, the practice of granting remission of sentence on occasions of public rejoicing should be abandoned, (paragraph 460).

CHAPTER XVII.—SPECIAL CLASSES OF PRISONERS.

Section I.—Civil Prisoners.

(371) Wherever possible, civil prisoners should be removed from criminal jails and confined in a separate institution under the control of the senior civil judge of the station, (paragraph 463).

(372) Until it is possible to make civil prisoners over to the charge of the civil judge, they should be kept in a yard which should, if possible, be outside the jail wall, or which, if this cannot be arranged, should have a separate entrance outside the jail and no inner communication with the jail, (paragraph 464).

(373) Civil prisoners should be (*a*) encouraged to work, (*b*) allowed books from the jail library, (*c*) permitted to purchase at their own expense books from outside, and (*d*) allowed harmless indoor games, (paragraph 465).

(374) As far as possible, separate sleeping accommodation should be available for civil prisoners, (paragraph 465).

(375) The practice of employing convict officers to guard civil prisoners is irregular and should be stopped, (paragraph 466).

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Section II.—State Prisoners.

(376) The arrangements for the treatment of "State Prisoners" appear to be satisfactory, (paragraph 467).

Section III.—Military Prisoners.

(377) Officers and soldiers of the Indian Army sentenced to imprisonment by courts-martial for purely military offences should not be sent to criminal jails, but to military prisons, (paragraph 469).

(378) If this is impossible, such military prisoners should be kept only in some selected central jail or jails, where separate accommodation for them should be provided, (paragraph 470).

Section IV.—Under-trial Prisoners.

(379) The under-trial block should be completely separated from the portion of the jail occupied by convicted prisoners, (paragraph 472).

(380) Under-trial prisoners should not be guarded by convict officers, (paragraph 473).

(381) In all future construction the accommodation for under-trial prisoners should provide for complete separation at night, (paragraph 475).

(382) The opinion of the Committee is divided as to whether under-trial prisoners should be kept in their cells by day, but the majority are against it, (paragraph 475).

(383) Any under-trial prisoner who wishes to remain in his cell by day should be allowed to do so, (paragraph 475).

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(384) All local Governments should continue to press on the courts the objections to prolonged detention of un-tried prisoners in prison, (paragraph 475).

(385) The United Provinces rule, requiring the Inspector-general of Prisons to call the attention of the Government to cases of undue detention in the under-trial yard, should be adopted in other Provinces, (paragraph 475).

(386) In order to allow of separation by day, there should be, in all jails, if possible, three sub-divisions of the under-trial yard, (paragraph 476).

(387) The Philippine custom of counting half the period of detention before and during trial as a part of the sentence is a reasonable one and worthy of consideration by the Government of India, (paragraph 477).

(388) All under-trial prisoners should be allowed :—(*a*) to procure, under certain conditions, books and newspapers from outside the jail, (*b*) to borrow books from the jail library and (*c*) any reasonable supply of stationery and writing materials, (paragraph 478).

(389) Purchases of food or other articles (if any) should be made through the jailor, (paragraph 479).

(390) Unless an under-trial is supplied with *cooked* food from outside he must accept food cooked in the general kitchen, (paragraph 479).

(391) Under-trials should be allowed to procure and use tobacco in reasonable quantities at their own expense, but alcohol should not be permitted, (paragraph 479).

(392) An under-trial should be allowed to change his clothes, provided that his appearance is not thereby materially altered. He should also be allowed to retain his shoes, (paragraph 480).

(393) Section 34 of the Prisons Act, 1894, relating to the employment of civil prisoners should be extended to under-trials, (paragraph 481).

(394) Under-trials should in no case be employed ouside their own enclosure, (paragraph 481).

(395). No prisoner should be produced in court in fetters except with the special permission of the court, (paragraph 482).

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(396) Rule 810 of the Punjab Prison Manual, which requires a jail superintendent to report to the court if an under-trial prisoner has had a previous conviction, should be cancelled, (paragraph 483).

(397) If an under-trial is seriously ill, the fact should be reported to the court with a view to his release on bail, (paragraph 484).

(398) Rule 878 of the United Provinces Prison Manual, which lays down that no under-trial prisoner accused of murder shall be locked up alone, should be cancelled, (paragraph 485).

(399) Arrangements should be made as regards the food of under-trials when sent to, or coming from, court, (paragraph 486).

Section V.—Prisoners under Sentence of Death.

(400) The guard over condemned prisoners should be composed of warders and not of police, (paragraph 488).

(401) The rules of the United Provinces regarding the use of fetters and belchain in the case of condemned prisoners should be cancelled, (paragraph 489).

(402) Female prisoners under sentence of death should in all Provinces be kept in the female yard, and guarded by female warders, (paragraph 490).

(403) Condemned prisoners whilst awaiting execution should be allowed books, tobacoo, interviews and religious ministrations, (paragraph 491).

(404) The gallows should be erected near the condemned cell, but should not be visible from it, (paragraph 492).

(405) The identification of the prisoner and the reading of the warrant to him should take place before he leaves his cell, (paragraph 492).

Section VI.—Female Prisoners.

(406) In building any new jail the female yard should be so placed that prisoners and visitors can reach it unobserved and that it is in complete isolation from the rest of the jail, (paragraph 493).

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(407) In female yards, provision should be made for the separation of adolescents from older prisoners, habituals from non-habituals, and respectable women from prostitutes, (paragraph 495).

(408) With this object, female prisoners should be concentrated at convenient centres where complete and efficient means of separation should be provided, (paragraph 496).

(409) A matron or female warder should be provided at every jail where female prisoners are received, (paragraph 497).

(410) No female prisoner should be sent out with only a male escort, (paragraph 498).

(411) As far as possible, corresponding arrangements should be made in regard to female prisoners in subsidiary jails, (paragraph 499).

(412) The advice of inspectresses of schools should be obtained regarding the best forms of employment for female prisoners, (paragraph 500).

(413) Female prisoners should be allowed to retain their children up to the age of four, or even up to the age of six if the superintendent approves, (paragraph 501).

(414) Female prisoners should be given a reasonable supply of oil for their hair, (paragraph 502).

Section VII.—Lepers.

(415) In every Province a jail (or annexe to a jail) should be provided for the reception of leper convicts, and every leper convict whose sentence is of sufficient length should be promptly transferred to it, (paragraph 503).

(416) Pending transfer to this jail or annexe, every leper should be kept separate from all other prisoners, (paragraph 504).

(417) Every cell or other building which has been occupied by a leper should be thoroughly disinfected, (paragraph 505).

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Section VIII.—Lunatics.

(418) Non-criminal lunatics should not be sent to a jail, but to a civil hospital, (paragraph 507).

(419) Criminal lunatics should be removed from jail to the lunatic asylum as promptly as possible, and superintendents should be allowed to despatch them to the lunatic asylum in anticipation of government sanction, (paragraph 508).

(420) Certain criminal lunatics who, under section 471 of the Criminal Procedure Code, are retained in prison should, as far as possible, be concentrated in selected jails, (paragraph 509).

(421) Government of India (Home Department), letter Nos. 15-1609-1617, dated 15th October 1888, regarding the treatment of recovered lunatics, should be withdrawn, (paragraph 510).

(*p*) CHAPTER XVIII.—VISITORS.

(422) A sufficient number of official and non-official visitors should be appointed for every central and district jail and for such subsidiary jails as the local Government may direct, (paragraph 512).

(423) The local inspector of schools (or another officer of the Education Department) should either be an *ex-officio* visitor of the central and district jails within his jurisdiction, or should have free access to such jails for purposes connected with the discharge of his official duties, (paragraph 513).

(424) It is important that the sessions judge and superior magistrates of the district should be on the board of visitors, (paragraph 513).

(425) All local Governments should consider the question of bringing the number of non-official visitors in their Province up to the Bengal standard, *viz.*, two for subsidiary jails, three for district jails and six for central jails, (paragraph 514).

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(426) In order to emphasise the importance of the position of visitors, every appointment of a non-official visitor should be notified in the official gazette of the Province, (paragraph 515).

(427) Non-official visitors should be appointed by the local Government or the divisional commissioner, (paragraph 515).

(428) The appointment of non-official visitors should be for a stated period, but any non-official visitor who has shown interest in the work and has proved his usefulness ought to be reappointed, so long as he is fit and willing to serve, (paragraph 516).

(429) The official and non-official visitors should constitute a board, with the district magistrate as *ex-officio* chairman, (paragraph 518).

(430) The district magistrate should arrange a roster for weekly visits to the jail by both official and non-official visitors, (paragraph 518).

(431) The board should meet at the prison once a quarter, and then carry out certain inspections and other duties, (paragraph 518).

(432) Non-official visitors should possess the same powers and be entrusted with the same duties as official visitors, (paragraph 519).

(433) No prisoner should be punished for any complaint or statement made to a visitor unless that visitor concurs, (paragraph 520).

(434) A pamphlet setting out the powers and duties of visitors should be drawn up and supplied to the office of each official visitor and to each non-official visitor on appointment, (paragraph 520).

(435) The visits to jails of both official and non-official visitors should be welcomed and encouraged, and both classes should receive the same treatment, (paragraph 521).

(436) Every visitor should be provided with a warder escort for his own safety, but should, if he so desires, be allowed to go round the jail unattended, except for the escort, (paragraph 521).

(437) Except on the occasion of quarterly meetings, no visitor can claim to be accompanied by the superintendent, jailor, deputy jailor or assistant jailor, (paragraph 521).

Chapter XXIII.—Summary of Recommendations.

(438) Lady visitors should be appointed for all central and district jails where female prisoners are confined ; where European ladies are appointed, they should be acquainted with the local vernacular, (paragraph 522).

(439) Lady visitors should possess the same powers and duties as the male visitors, except that they should be concerned only with female prisoners and the female yard, (paragraph 523).

(*q*) CHAPTER XIX.—PRINCIPLES OF PRISON CONSTRUCTION.

(440) The minimum area to be provided within the enclosing wall of a jail should be at the rate of 75 square yards per inmate, and except where land is specially valuable, it might with advantage be at the rate of 100 square yards per inmate, or 30 acres for a full sized central jail, (paragraph 524).

(441) An equal area should be provided outside the walls for the garden, and land should also be reserved for quarters for the warders and superior staff, (paragraph 525).

(442) New jails should be built, not inside a city or large town, but on the outskirts, ; the best site being from about a mile to two miles from the town limits, (paragraph 526).

(443) The quarantine yard should be near the main gate, should be divided into three sub-yards, and the buildings should be cellular, (paragraph 527).

(444) The hospital yard should be near the main gate and should have direct communication with the quarantine yard, (paragraph 527).

(445) In jails in which under-trials are received, their yard should be as near the main gate as possible, should be divided into three sub-yards and the buildings should be cellular, (paragraph 527).

(446) If civil prisoners are received in a criminal jail, the yard for their detention should be placed outside the main gate and enclosing wall of the jail, (paragraph 527).

(447) In order that it may be possible to reach the female yard without going through the portion of the jail reserved for males, the yard should either

have a separate entrance or should be reached by a excluded passage, (paragraph 527).

(448) Store-rooms should be as near the main gate as possible, (paragraph 927).

(449) No ward should contain more than forty prisoners, (paragraph 528.)

(450) Not less than twelve square feet of ventilating space should be provided for each inmate, (paragraph 528).

(451) Where jails are not lighted by electricity a lamp should be provided for every 25 feet of length of ward, and the ceiling or roof should be white-washed, (paragraph 528).

(452) The type of cell in use in most Provinces is far from satisfactory ; Plans Nos. 3 and 4 in Appendix XIII show the Committee's suggestions, (paragraph 529).

(453) Every general latrine should have foot-rests and be provided with partitions high enough for reasonable privacy, (paragraph 530).

(454) Means should be provided in the hospital for separating prisoners suffering from tubercle, dysentery and venereal, (paragraph 531).

(455) There should also be a small isolation block, either in the hospital enclosure or outside the jail, for such cases as plague, cholera, small-pox, mumps or measles, (paragraph 531).

(456) If the isolation sheds are outside the jail, there should be a room for the medical subordinate on duty, (paragraph 531).

(457) In every jail hospital there should be a small but well lighted operating room and a night room for the sub-assistant surgeon, (paragraph 531).

(458) The divisions between different enclosures should, wherever possible, consist of iron railings rather than of solid walls, (paragraph 532).

(*r*) Chapter XX.—Subsidiary Jails.

(459) The principle which forbids under-trial prisoners being left in the hands of the police is a sound one and should be generally observed, (paragraph 535).

Chapter XXIII.—Summary of Recommendations.

(460) Wherever prisoners on remand or committed for trial are at present kept in a magisterial lock-up or a police lock-up (other than such as form part of a police station), that lock-up should be notified as a subsidiary jail and be brought within the purview of the duties of the Inspector-general of Prisons, (paragraph 535).

(461) In all Provinces the question of converting magisterial lock-ups into subsidiary jails should be considered, (paragraph 535).

(462) Such practical changes should be made in the control of sub-jails as will ensure that prisoners kept in them shall not be subject to police influence, (paragraph 536).

(463) The Bengal system of deputing warders to the subsidiary jails from the district jail might be adopted in Provinces where the number of sub-jails is small, (paragraph 537).

(464) In Madras and Bombay at least two warders, who may be selected peons, should be provided at each subsidiary jail, so that one warder may always be present, (paragraph 538).

(465) The duties of the Police guard, if any, should be limited to guarding the prisoners in the sub-jail, (paragraph 538).

(466) Beyond the warder staff the ordinary subsidiary jail requires little establishment, though in a few large sub-jails a whole-time jailor may be required, (paragraph 539).

(467) In future no convicted persons should serve their sentences in subsidiary jails, (paragraph 540).

(468) As in future all prisoners in sub-jails will thus be under remand or under trial, the accommodation to be hereafter provided in a sub-jail should be entirely cellular, *vide* Plan No. 3 or Plan No. 4 in Appendix XIII, (paragraph 541).

(469) The sub-jail cells should be placed in a small separate yard and should not merely form one side of the *kacheri* enclosure, (paragraph 541).

(470) In the sub-jail cell yard there should be adequate bathing arrangements and, if possible, latrines, (paragraph 542).

(471) If a latrine is provided in a sub-jail ward, it should be a cage latrine of the pattern shown as Plan No. 2 in Appendix XIII, (paragraph 542).

Chapter XXIII.—Summary of Recommendations.

(472) The above suggestions should be followed in all future construction and existing sub-jails and lock-ups should be gradually altered, those which depart farthest, from these recommendations being dealt with first, (paragraph 543).

(473) Two non-official visitors should be appointed to the larger sub-jails, the appointment being made by the district magistrate, (paragraph 544).

(474) An inspection register should be kept at each sub-jail in which official and non-official visitors should enter their remarks, a copy of which should be sent to the district magistrate as soon as possible, (paragraph 544).

(*s*) Chapter XXI.—Transportation and the Andamans.

Section II.—Proposals for the Future of the Settlement.

(475) If any fresh attempt at colonisation is made, it should be in an entirely new locality, (paragraph 553).

(476) A fresh attempt at colonisation in the Middle Andaman is not recommended, (paragraph 555).

(477) The retention of the settlement at Port Blair on the present lines is not recommended, (paragraph 563).

(478) The entire abandonment of the Andamans as a place of deportation is not recommended, (paragraph 563).

(479) Deportation to the Andamans should cease, except in regard to specially dangerous prisoners and any others whose removal from Indian jails is considered by the Government to be in the public interests, (paragraph 566).

(480) The existing restrictions as to age and physical condition of prisoners sentenced to transportation to the Andamans should, unless special medical grounds exist in any particular case, cease to apply, (paragraph 567).

(481) The Indian Penal Code should be amended by the substitution of "rigorous imprisonment" for "transportation", (paragraph 568).

Chapter XXIII.—Summary of Recommendations.

(482) In Provinces where the available prison accommodation will not permit of the immediate cessation of deportation of all but selected prisoners, the Star class should be the first, and the habitual the last, to be detained in Indian jails, (paragraph 571).

(483) No females should in future be deported to the Andamans, and those now there should be brought back to India and distributed among the Provinces to which they belong, (paragraph 572).

(484) In those Provinces where the jails are insufficient to detain prisoners now deported, additional accommodation should be provided as soon as possible, (paragraph 573).

Section III.—Reforms required in the Cellular and Associated Prisons.

(485) The superintendent of the jails should be relieved of all extraneous duties and be enabled to devote his whole time to the jails; and a separate senior medical officer should be appointed as soon as possible, (paragraph 577).

(486) The sanctioned establishment of medical subordinates in the jails is inadequate and two sub-assistant surgeons should be provided for the sub-medical charge, (paragraph 578)

(487) Until a separate senior medical officer is appointed, an assistant surgeon should be at once attached to the jails, (paragraph 578).

(488) The number of executive and clerical officers provided in the jails is inadequate; a jailor, deputy jailor and four assistants should at once be provided, (paragraph 579).

(489) The warder staff of the jails is also inadequate; there should not be less than 130 warders for the 1,300 prisoners, (paragraph 580).

(490) When the warder staff has been increased, as proposed, the number of convict officers should be reduced, (paragraph 580).

(491) There should be a properly trained foreman in charge of the manufacturing operations in the Cellular Jail, (paragraph 581).

(492) The jail hospital and hospital arrangements need substantial improvement, (paragraph 582).

Chapter XXIII.—Summary of Recommendations.

(493) In view of the large amount of illness, special attention should be paid to the weighments of prisoners, (paragraph 583).

(494) The administration of the Cellular and Associated Jails should be brought up to the level of an Indian prison, and the recommendations in other Chapters of the Report should be applied to them, (paragraph 584).

(495) The remission system and the proposals regarding revision of sentences should be applied, (paragraph 585).

(496) Life convicts, whose return to India is objected to by the local Government, should, in certain circumstances, be allowed to live outside the jails, (paragraph 585).

(497) A library should be provided for these jails, (paragraph 586).

(498) In future, gifts of books to the jail library should be available for all prisoners in the jail, (paragraph 586).

Section IV.—Reforms required in the Andamans outside the Cellular and Associated Jails.

(499) The initial period of confinement in the Cellular Jail may be continued, but the first claim to accommodation should be on account of the specially selected prisoners, (paragraph 588).

(500) No specially selected prisoner should be removed from the Cellular Jail to a convict station, (paragraph 588).

(501) The convicts outside the jails should be concentrated in six temporary jails or concentration stations, (paragraph 589).

(502) The sites selected for these temporary jails should be healthy and free from malaria, (paragraph 589).

(503) Proper supervision over these temporary jails should be provided (paragraph 589).

(504) A resident superintendent should be appointed for charge of each temporary jail or concentration station, each of the present five assistants (to

Chapter XXIII.—Summary of Recommendations.

whom a sixth should be added) being made superintendent of one of the jails or stations, (paragraph 589).

(505) Each temporary jail should have a jailor, a deputy jailor and one or more assistant jailors, suitable members of the present "overseers" staff being appointed jailors, (paragraphs 590 and 591).

(506) The staff required should be recruited by deputation from local Governments in India, (paragraph 592).

(507) The pay of jailors and assistant jailors should not be less than that recommended in paragraphs 52 and 53 of the Report, (paragraph 593).

(508) The overseers' request for passages to India for themselves and their families once in three years is reasonable and should be granted, (paragraph 593).

(509) Each temporary jail or concentration station should have at least 8 head warders on Rs. 75, rising to Rs. 100, and 40 warders on Rs. 25, rising to Rs. 50, (paragraph 594).

(510) A commissioned medical officer should be appointed to the charge of the four hospitals at Bamboo Flat, Middle Point, Haddo and Viper Island, (paragraph 596).

(511) The arrangements in those hospitals should generally be improved, (paragraph 596).

(512) In order to attract good men to these remote hospitals adequate allowances should be attached to the posts, (paragraph 597).

(513) Patients suffering from phthisis should be removed to India at an early stage of the disease, (paragraph 598).

(514) Every prisoner should be weighed periodically and a record of the weighments should be maintained and examined, (paragraph 599).

(515) Efficient steps should be adopted to ensure that every man has a dry suit of clothes to change into, (paragraph 600).

(516) The arrangements for the cooking and distribution of rations should be controlled by a paid officer, (paragraph 601).

Chapter XXIII.—Summary of Recommendations.

(517) The early morning meal or "*kanji*" should be issued on non-working days as well as on working days, (paragraph 602).

(518) The reclamation of salt swamps in the neighbourhood of buildings should be pushed on and take precedence of all other projects, (paragraph 604).

(519) The question whether stations consisting of less permanent and costly buildings cannot be moved from the neighbourhood of salt swamps to higher land should be considered, (paragraph 604).

(520) Every endeavour should be made to abolish those methods of employment which are prejudicial to the health of the prisoners, (paragraph 605).

(521) No convicts for whom accommodation is available in their own Province in India should in future be sent to the Andamans merely on the ground of demands for labour there, (paragraph 605).

(522) A definite date should be fixed after which the supply of convicts will be withdrawn from the forest camps in the Middle Andaman, (paragraph 610).

(523) A proper labour register for each station should be maintained, (paragraph 611).

(524) The possibility of introducing labour, saving machinery should be considered, (paragraph 612).

(525) When the paid staff has been increased, the number of convict officers should be largely reduced; their duties and responsibilities should be regulated in accordance with the principles laid down in Chapter VI of this Report, (paragraph 613).

(526) An effective measure of classification should be introduced and one or more stations should be set apart for habitual prisoners, who should wear distinctive clothing, (paragraph 614).

(527) The non-habitual convicts should be divided into Star class and Ordinary, as recommended for Indian jails, (paragraph 614).

(528) The rule prohibiting the employment of habituals as convict officers ought to be applied to the Andamans, except in those concentration stations which are reserved for habituals, (paragraph 614).

Chapter XXIII.—Summary of Recommendations.

(529) The practice of releasing prisoners as self-supporters should cease, (paragraph 615).

(530) Existing self-supporters should remain in the settlement until their sentence is completed, unless their release under section 401 of the Criminal Procedure Code is sanctioned, (paragraph 616).

(531) The remission rules, recommended for adoption in Indian jails, should be introduced into the Andamans, (paragraph 617).

(532) When a prisoner has reached the stage of his sentence which, if he were in an Indian prison, would bring him before the local Revising Board, his case should be referred to the local Revising Board of his Province, (paragraph 618).

(533) The question of the release of old and decrepit prisoners should be submitted to the local Government for consideration, on the certificate of the medical officer, (paragraph 619).

(534) The rate of stipend allowed to existing non-agricultural self-supporters should be increased, (paragraph 621).

(535) The issue of "dry" rations to convicts should be discontinued, (paragraph 622).

(536) The gratuity system recommended in paragraphs 258 to 263 of the Report should be introduced in the Andamans, (paragraph 623).

(537) Efforts should be made to provide adequate religious and moral influences among the prisoners, and the existing embargo on the construction of religious buildings should be withdrawn, (paragraph 624).

(538) In the Andamans, as in India, an interview should be permitted once in three months, [paragraph 625 (*i*)].

(539) Prisoners should be permitted to write letters in any Indian vernacular or in Singhalese, [paragraph 625 (*ii*)].

(540) The rule in force in Indian jails as to the writing of letters should be adopted for second and third class prisoners in the Andamans, [paragraph 625 (*iii*)].

(541) A convict should be permitted to petition the local Government for release, at reasonable intervals, [paragraph 625 (*iv*)].

Chapter XXIII.—Summary of Recommendations.

(542) The rule in the Andamans Manual, requiring petitions to be stamped, should be cancelled, [paragraph 625 (*v*)].

(543) The circular enjoining the award of corporal punishment, whenever a convict escapes a second time, is objectionable and the district officers should be allowed to deal with each case on its merits, [paragraph 625 (*vi*)].

(544) Any time spent in the chain-gang should be included as part of a prisoner's sentence, and sentences should be recalculated accordingly, [paragraph 625 (*vii*)].

(545) Self-supporters' houses should be built of planks or other substantial material, [paragraph 625 (*viii*)].

(546) A small library should be provided at each of the four hospitals, [paragraph 625 (*ix*)].

(547) Prisoners should be allowed, as in Indian jails, to retain their caste or religious symbols, [paragraph 625 (*x*)].

(548) The regulations in Indian jails, which prohibit interference with the religious and caste prejudices of prisoners, should be extended to the Andamans, [paragraph 625 (*xi*)].

Section V.—Opinion of the Member who dissents.*

(549) I am strongly of opinion that the sentence of transportation should be abolished from the Indian Penal Code, (paragraph 630).

(550) I am unable to agree that specially dangerous prisoners should be transported to the Andamans, (paragraph 632).

(551) If specially dangerous prisoners are still to be deported to the Andamans, the prisoners should be so classed preferably by the trying court, otherwise by a board consisting of the sessions judge and district magistrate, (paragraph 634).

(552) Once a man is found to be specially dangerous his treatment should be more rigorous and penal than that meted out to habitual prisoner, (paragraph 635).

*D. M. Dorai Rajah of Pudukottah.

Chapter XXIII.—Summary of Recommendations.

(553) The prisoners now in Port Blair should at once be transferred to the local jails in India where temporary jails should, if necessary, be provided, (paragraph 638).

(*t*) CHAPTER XXII.—CRIMINAL TRIBES.

(554) The first essential of success in dealing with the criminal tribes is the provision of a reasonable degree of economic comfort for the people, (paragraph 659).

(555) It is therefore of paramount importance to locate settlements where sufficient work at remunerative rates is available, (paragraph 660).

(556) Large numbers of fresh settlers should never be sent to a settlement without first ascertaining whether there is work for them, (paragraph 660).

(557) Commitment to settlements should, as far as possible, be by gangs not by individuals, (paragraph 665).

(558) Before any individual is dealt with under sections 11 or 16 of the Criminal Tribes Act there ought to be a formal inquiry, of which notice should be given to the person concerned and he should have an opportunity of meeting the charges against him, (paragraph 667).

(559) In any Province where any considerable number of settlements exists, an officer of some seniority should be appointed to supervise generally the working of the Act, (paragraph 668).

(560) It is desirable to utilise both Government and private agency for the control of settlements, (paragraph 668).

(561) In selecting the management (in the case of private control) preference should, if possible, be given to persons of the same religious faith as the tribe to be included in the settlement ; but no embargo should be placed on the employment of Christian agency, (paragraph 669).

(562) Any person detained in a settlement should have a right to claim to be transferred from a settlement under private control to one under government control, (paragraph 669).

Chapter XXIII.—Summary of Recommendations.

(563) It is essential that whoever is placed in charge of a criminal tribes settlement should possess a good knowledge of the language of the people in the settlement and a sufficient acquaintance with Indian manners and customs generally, (paragraph 670).

(564) The compulsory removal of criminal tribes to distant Provinces and different language areas is objectionable and should not be permitted, (paragraph 671).

(565) The practice, followed in the Bombay Presidency, of asking a gang or tribe to select the settlement where they would like to be placed should be adopted generally, (paragraph 671).

(566) The children of members of criminal tribes should not ordinarily be separated from their parents, (paragraphs 672 and 673).

(567) The provision of education for the children of criminal tribes should be steadily insisted on, (paragraph 674).

(568) Regular provision should be made for the teaching of those trades by which it is most likely that the children will be able to earn their living successfully, (paragraph 674).

(569) Adequate medical relief should be provided in each settlement, (paragraph 675).

(570) Before a settlement is located its suitability from a health point of view should be considered, (paragraph 675).

(571) No child, whether brought into, or born in, a settlement should be registered as a member of a criminal tribe unless he is guilty of crime or misconduct : the automatic registration of children should be prohibited, (paragraph 676).

(572) To assist the absorption of the criminal tribe into the general population it may be desirable to change the caste-name, (paragraph 676).

(573) The manager of a settlement should be responsible for the due provision of work and the work should be so arranged as to furnish a reasonable degree of comfort for the worker, (paragraph 677).

(574) The most successful settlements are those where labour is available in some large neighbouring commercial undertaking, (paragraph 678).

Chapter XXIII.—Summary of Recommendations.

(575) When agriculture is relied on, an adequate area of good land should be provided and, if possible, security against seasonal vicissitudes by provision of irrigation, (paragraph 678).

(576) When outturn is unsatisfactory the effect of a bonus for increased production should be tried, (paragraph 678).

(577) It is essential that the manager of a settlement should receive support from the courts when it becomes necessary to prosecute absconders and offenders, (paragraph 679).

(578) The guarding inside a settlement should, if possible, be entrusted to trustworthy members of the settlement, (paragraph 679).

(579) Police should be excluded from the settlement but there is no objection to a police patrol outside the settlement for the protection of property in the neighbourhood, (paragraph 679).

(580) Any incorrigible person in an ordinary settlement should be transferred to a special settlement to which his wife and any children not over five years of age should accompany him ; older children should be sent to cottage homes provided for the purpose, (paragraph 679).

(581) The procedure under which final and complete release from a settlement can be attained should be definitely laid down, (paragraph 680).

(582) There should be periodical conferences of officers in charge of criminal tribes, (paragraph 681).

(583) Every officer in charge of the criminal tribes of a Province should be provided with a small library of books bearing on this and analogous subjects, (paragraph 681).

(584) The true aim of the settlements should be the reformation of the inmates : the settlements should not be regarded as existing merely for preventive purposes, (paragraph 682).

CHAPTER XXIV.

CONCLUSION.

The late Khan Bahadur Khalifa Hamid Hussain

684. As the Government of India was advised in our Secretary's letter No. 513, dated 19th May 1920, our colleague, Khan Bahadur Khalifa Hamid Husain, died at Simla on the 16th May after a brief illness. The late Khan Bahadur accompanied us throughout our tour and took part in our deliberations until within three or four days of his lamented death. In him we lost a colleague of rare qualities, a man of genial disposition, sound judgment, and true sympathy with the people of India generally and with the members of his own community in particular. We have never ceased, collectively and individually, to deplore his loss.

Measure of agreement and difference in the Report.

685. It will be apparent from the preceding Chapters that there have been a few matters dealt with in this Report on which we have been unable to agree. As the records of the International Congresses of Penologists show, there has never been unanimity on all questions brought up for discussion on those occasions and it was hardly to be expected that we should be able to agree in all respects on the many complex and disputed questions with which we have to deal. We think it will be found that the very large and substantial measure of agreement at which we have been able to arrive is more noteworthy than our few differences.

Acknowledgments to the Secretaries.

686. In conclusion we desire to express our acknowledgments to our Secretary, Mr. Donald Johnstone, I.C.S., and to our Assistant Secretary, Mr. John W. Steadman of the India Office, for their careful and unremitting labours. On them has fallen the heavy task of making all arrangements for our journeys, as well as of seeing our Report and its Appendices, including the Volumes of Evidence, through the Press, which they have done in a highly efficient manner, Mr. Johnstone's ability and personal qualities admirably fitted him for the post of Secretary, and we have formed a high opinion of Mr. Steadman's judgment and business capacity. We are greatly indebted to both officers for the valuable services they have rendered us and for their cheerful response to every demand for assistance.

Acknowledgments to the Government Press.

687. Our report has had to be printed and submitted under considerable difficulties due to the occurrence of a strike in the Government Press, and we

Chapter XXIV.—Conclusion.

trust that any deficiencies which may thus have arisen will be overlooked. We desire to express our acknowledgments to the Superintendent of the Press for the manner in which, in spite of these difficulties, he has succeeded in printing our Report.

A. G. CARDEW, ...	*Chairman.*
J. H. DUBOULAY,	*Members.*
J. JACKSON,	
WALTER BUCHANAN,	
D. M. DORAI RAJAH OF PUDUKOTTAH,	
N. G. MITCHELL-INNES,	

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APPENDIX I.

RESOLUTION APPOINTING COMMITTEE.

Government of India : Home Department (Jails) Resolution, No. 63, dated Simla, the 28th April 1919.

During the session of the Imperial Legislative Council at Delhi in the cold weathes of 1913-14, a resolution was adopted recommending that a joint commission of officials and non-officials be appointed to investigate the whole subject of jail administration and to suggest improvements in the light of the experience of the West. Such a course is consistent with the manner in which prison management has developed in this country. Four general enquiries have already been held, in the years 1838, 1864, 1877 and 1888-89 respectively, into the whole question of the administration of jails. There have, of course, been numerous independent discussions and declarations of policy on special points, either of a general character or in relation particularly to individual Provinces, but the main lines of advance followed have been the result of the reports then submitted. This, therefore, is the first reason for advocating such a procedure now, namely, that it has yielded beneficial results in the past and that a considerable period of time has elapsed since resort was last had to a general enquiry.

2. But an even stronger ground than this exists. Without in any way desiring to underestimate the valuable results which have accrued from the labours of these different committees, and while fully cognisant of the great advances which have been made in jail management, thanks to the energetic efforts of local Governments, the Governor-General in Council considers that, as a general statement, it is not unfair to say that attention has mainly been directed hitherto to the improvement of prison administration on lines and standards which in recent times have undergone considerable modification, at any rate in the West. This was, indeed, inevitably the case. When an attempt was first made in 1838 to deal with the subject comprehensively and thoroughly, the foundations of an efficient system had practically still to be laid. Diversity of practice in different Provinces was the rule rather than the exception, and this complaint recurs even in connection with the latest enquiry of 1888-89. The Prisons Act of 1894 (Act IX of 1894) was the first recognition by the Legislature that in certain respects uniformity must be insisted upon, and its enactment was the result of Surgeon-Major Lethbridge's recommendations, as subsequently re-examined in 1891-92 by a departmental committee. In appointing the committee of 1888-89, the Government of India (*vide* their Resolution No. 458-464, dated the 9th October 1888), expressly stated that they had no wish to reconsider the principles laid down by the three preceding investigations, and so great has been the leeway to be made up in what may be termed the essentials of any prison system, *e.g.*, an efficient jail service, proper buildings and diet scales, suitable forms of labour, and the classification of prison offences and punishments, etc., etc., that progress in these directions has absorbed much of the attention of the capable officers to whom the control of the Department is now entrusted. In all these directions a great advance has been achieved, but a review of the development of prison administration in the various Provinces, in order to see what has been accomplished and what still remains to be done, would naturally form part of any further enquiry now held.

3. But, over and above this, something more is required. Ideas on the subject of the treatment of prisoners have advanced rapidly in recent years, largely under the stimulus of the quinquennial International Conferences of which the first was held in London in 1872 and the latest in America in 1910, and the deliberations of these bodies point to the importance of reformation as a main end to be sought for in a large number of cases. The Probation of Offenders Act, 1907,

Appendix I.—Resolution Appointing Committee.

the Prevention of Crimes Act, 1908, and the Children Act of the latter year, are all instances of modern English legislation on the subject, of which the Borstal system (with the after-care Borstal Association) and the encouragement given to discharged prisoners' aid societies are conspicuous results. The Government of India are well aware of the differences in prison practice in England and India, and they do not desire in any way to imply that all the latest experiments of the West are necessarily suitable for introduction in the East, but they are of opinion that the subject well merits detailed expert examination if the prevalent system in this country is to be saved from the reproach that it is failing to keep pace with modern ideas. It is true that in various Provinces experiments with the Borstal system and with preventive methods as applied to criminal tribes are being made, but action is being taken by Provinces individually, and the scrutiny and co-ordination of the results attained are likely to ensure that lines of future policy are defined and mistakes avoided in the early stages. Exact uniformity of procedure in all Provinces is no doubt impossible, and possibly undesirable, but, with adaptation in degree and detail to varying local conditions, there is no reason why the general principles governing the treatment of criminals should not be the same throughout the country.

4. There remains the very important subject of transportation, about which much has been written in the past, and into a discussion of the merits of which it is not proposed to enter, but recent enquiries and events have led the Government of India to doubt whether the administration of the Andamans as a penal settlement is not susceptible, with advantage, of material change, or whether in fact the continuance of the settlement in its present shape is in itself expedient. An enquiry in this direction may be expected to yield results of special value.

5. Subsequent to the discussion in the Legislative Council referred to above, the Government of India consulted all local Governments regarding the proposed enquiry into prison administration in India and found that opinion was unanimously in favour of such an undertaking. They then secured the consent of His Majesty's Secretary of State to the appointment of a committee of enquiry and the steps for the constitution of the committee were in progress on the date of the outbreak of war. That event rendered the conduct of the proposed enquiries outside India impossible and the project for appointing a committee had to be for the time abandoned. Experience of the past five years has emphasised the necessity for this enquiry and the Government of India have now resolved, with the concurrence of the Right Honourable the Secretary of State, to take up the matter again. Accordingly it has been decided now to appoint a committee to investigate the whole system of prison administration in India with special reference to recent legislation and experience in Western countries. The constitution of the committee will be as follows :—

Chairman

The Honourable Sir Alexander G. Cardew, K.C.S.I., Member of the Executive Council, Madras,

Members

The Honourable Sir James H. DuBoulay, K.C.I.E., C.S.I., Secretary to the Government of India, Home Department,

Colonel James Jackson, C.I.E., I.M.S., Inspector-general of Prisons, Bombay,

Lieutenant-Colonel Sir Walter J. Buchanan, K.C.I.E., I.M.S., Inspector-general of Prisons, Bengal,

Khan Bahadur Khalifa Syed Hamid Husain, Delhi,

D. M., Dorai Rajah of Pudukottah, B.A., B.L., Madras,

Mr. N. G. Mitchell-Innes, Inspector of Prisons, Home Office, London,

Secretary

Mr. D. Johnstone, I.C.S.

This Committee will assemble at an early date in London, and after examining the working of the prison systems of Great Britain, and possibly other countries, including the United States of

Appendix I.—Resolution Appointing Committee

America, will return to India and, in the course of the next cold weather, visit the various Provinces of India and the Andamans. The Committee's inquiries will have particular reference to the following subjects, namely :—

(*i*) the efficacy and appropriateness of the existing systems of prison administration and restraint on liberty in India, including the Andamans and any settlements constituted under the Criminal Tribes Act, 1911 ;

(*ii*) the possibility of strengthening the reformatory influence of prison administration and discriminating in regard to the treatment of criminals of different classes and ages ; and

(*iii*) the best means of assisting prisoners after release to regain a position in society.

The Governor-General in Council does not propose to attempt an enumeration of the different points which under these main heads should occupy the attention of the Committee, but generally it will be its duty to consider how far the methods which have been shown by recent experience in other countries to be beneficial in the treatment of prisoners, can usefully be applied to Indian conditions ; how far the existing Indian prison system is susceptible of improvement, and what steps should be taken to render it both more deterrent to crime and more reformatory in its influence.

Order.—Ordered that the Resolution be published in the *Gazette of India* and that a copy be forwarded to local Governments and Administrations, the Departments of the Government of India, and the Superintendent, Port Blair, for information.

APPENDIX II.

A LIST OF THE INSTITUTIONS VISITED IN GREAT BRITAIN.

(Referred to in paragraph 2 of the Report.)

Locality.	Name and nature of institution.	Remarks.
	(i) *Visited by all Members.*	
London	Wormwood Scrubs, Local Prison	Governor : Major Briscoe.
	Holloway, Female Prison	Governor : Dr. Paton.
	Old Street, Children's Court	Magistrate : Mr. W. Clarke Hall.
	Bow Street, Children's Court	Magistrates : Sir John Dickenson and Mr. Garrett.
	Pentonville Road, London County Council Children's Remand Home.	....
Aylesbury	Borstal Institution for Girls	Governor : Dr. Morton.
Chatham	Borstal Institution for Boys	Governor : Dr. Winder.
Redhill	Reformatory School for Boys	Warden : The Rev. R. P. McAuliffe.
Farnborough	Milton Industrial School for Boys.	Superintendent : Mr. Morgan.
Hayes, Middlesex	Hayes Industrial School for Jewish Boys.	Superintendent : Mr. I. Ellis.
Isle of Wight	Camp Hill, Preventive Detention Prison.	Governor : Mr. F. E. Wintle.
	Parkhurst, Convict Prison	Governor : Captain D'Aeth.
Edinburgh	Calton Gaol, Local Prison	Governor : Major Monro.
Edinburgh, Saughton	New Scottish Prison (under construction).	Governor : Major Monro.
Edinburgh	Children's Home managed by the Scottish National Society for the Prevention of Cruelty to Children.	Superintendent : Miss Francis Hepburn.
Polmont	Borstal Institution for Boys	Governor : Mr. Black.
Glasgow	Barlinnie, Local Prison	Governor : Mr. Buglas.
	Moss Bank Industrial School for Boys.	Governor : Mr. William Smith.
Paisley	Kibble Reformatory School for Boys.	Superintendent : Mr. J. Love.

Appendix II.—A List of the Institutions visited in Great Britain.

(ii) *Visited by the Chairman, Mr. Mitchell-Innes and Khan Bahadur Khalifa Syed Hamid Husain.*

Locality.	Name and nature of institution.	Remarks.
Liverpool	Walton Prison, Local Prison for males and females and Convict Prison for females.	Governor: Mr. J. Dillon.
	St. George's Industrial School	Superintendent: Mr. Norton.
	The Boys' Home, St. Anne's Street	Captain McManus.
	Children's Court	Magistrate: Mr. Deacon.

(iii) *Visited by the Chairman and Mr. Mitchell-Innes.*

London	Scotland Yard, Finger Print Bureau.	....
Bedford	Local Prison for males	Governor: Mr. W. Dobson.
Carlton, Sharnbrook	Bedfordshire Reformatory School for Boys.	Superintendent: Mr. E. Silkstone.

(iv) *Visited by the Chairman.*

Bristol	Local Prison	Governor: Mr. Kemp.
Birmingham	Local Prison	....
	Remand Home for Children	....
	Victoria Courts	....
London	Tower Bridge, Children's Court	Magistrate: Mr. Bingley.
	Westminster, Children's Court	Magistrate: Mr. Chapman.
	Old Street, Children's Court	Magistrate: Mr. Wilberforce.

(v) *Visited by Sir James Du Boulay.*

Winchester	Local Prison	Governor: Major MacTier.

APPENDIX III.

A LIST OF THE INSTITUTIONS VISITED IN (*a*) THE UNITED STATES and (*b*) THE FAR EAST.

(Referred to in paragraphs 4 and 5 of the Report.)

Locality.	Name and nature of institution.	Remarks.
	(a) The United States.	
New York City, New York	Children's Court and Police Court	Judge Levi and Judge Corrigan.
	Domestic Relations Court	Judge Schwab.
	Parole Court	Judge Wadhams.
	City Prison. (The Tombs)	....
Comstock, Albany, New York.	Great Meadow Prison	Warden : Mr. William J. Homer.
Hastings, New York	New York City Orphanage	Superintendent : Dr. R. Reeder.
	The Children's Village	Superintendent : Mr. G. Morgan.
Rhwav, New Jersey	Reformatory	Superintendent : Mr. F. Moore.
Occuquan, Virginia	Workhouse of District of Columbia.	Warden : Mr. Charles C. Foster.
Lorton, Virginia	Reformatory of District of Columbia.	Warden : Mr. Charles C. Foster.
Elmira, New York	Reformatory	Superintendent : Dr. Frank L. Christian.
Industry, New York	Industrial and Agricultural School	Superintendent : Mr. H. H. Todd.
Rochester. New York	Penitentiary and County Jail	....
Buffalo, New York	Wende, Erie County Penitentiary Farm.	....
Cleveland, Ohio	Children's Court	Judge George S. Addams.
	Protestant Orphanage	Superintendent : Mr. Henry.
	City Workhouse and Farm, Warrensville.	Superintendent : Mr. Burns.
	Detention Home	Superintendent : Miss Marlow.
	School for Truant and Defective Children	....
Putnamville, Indiana	State Farm, Greencastle	Superintendent : Mr. C. E. Talkington.

Appendix III.—A List of the Institutions visited in (a) *the United States and* (b) *the Far East.*

Locality.	Name and nature of institution.	Remarks.
Plainfield, Indiana	Indiana Delinquent Boys' School	Principal : Mr. C. A. McGonagle.
Indianapolis, Indiana	Indiana Women's Prison	Superintendent : Miss M. H. Elliott.
Clerment, Indiana	Indiana Girls' School	Superintendent : Dr. K. Sessions, M.D.
Michigan City, Indiana	State Prison	Warden : Mr. E. J. Foggarty.
Chicago, Illinois	Joliet Prison	Warden : Mr. E. J. Murphy.
	Parole Board	Chairman : Mr. Will Colvin.
	Children's Court	Judge Victor P. Arnold.
	Criminal Court	Judge Harry Olsen.
	Juvenile Psychopathic Clinic	Dr. Herman M. Adler.
	Juvenile Psychopathic Clinic	Dr. William J. Hickson.
San Francisco, California	San Quentin State Prison	Warden : Mr. James A. Johnston.
	City Prison	....
	Sonoma State Home	Dr. Astredo.
	Agnew State Hospital for Insane	Superintendent : Dr. Leonard Sticking.
	Oaklands Detention Home	....
	Oaklands City Prison	....

(*b*) *The Far East.*

Tokyo, Japan	Sugamo Prison	
	Kosuge Prison	
Manila, Philippine Islands	Bilibid Prison	Superintendent : Mr. M. Almario.
	City Reformatory for Boys	Superintendent : Mr. L. V. Eleazar.
	City Reformatory for Girls	Superintendent : Mrs. Escarella.
Victoria, Hon Kong	General Prison	Superintendent : Mr. Franks.

APPENDIX IV.

THE COMMITTEE'S ITINERARY IN INDIA AND BURMA.

(Referred to in paragraph 7 of the Report.)

(I) *The Madras Presidency.*

	Institutions visited.	Witnesses examined.
January 1920.		
3rd Sat.	District Jail, Madura	E. H. Wallace, Esq., I.C.S., District and Sessions Judge, Tanjore.
4th Sun.	Borstal Institution, Tanjore.	A. J. Nicholas, Esq., Superintendent, Borstal Institution.
	Subsidiary Jail, Tanjore	....
5th Mon.	Central Jail, Coimbatore	Lieutenant-Colonel C. F. Fearnside. I.M.S., (retired), Superintendent, Central Jail.
6th Tue.	Central Jail, Vellore	P. C. Dutt, Esq., I.C.S., Collector and District Magistrate, North Arcot.
		W. E. Mitchell, Esq., Superintendent, Central Jail.
	Subsidiary Jail, Vellore	....
7th Wed.	The Penitentiary, Madras	G. W. Deane, Esq., Superintendent of the Penitentiary.
8th Thu.	Reformatory School, Chingleput.	M. R. Ry. Krishna Warriyar Avargal, acting Superintendent, Reformatory School.
	Subsidiary Jail, Chingleput	....
	Criminal Tribes Settlement, Pallavaram.	Adjutant W. Martin of the Salvation Army (at Pallavaram).
9th Fri.	Criminal Tribes Settlement, Perambur.	Adjutant J. Bettie of the Salvation Army.
	Civil Jail, Madras	F. Armitage, Esq., Commissioner of Police, Madras.
10th Sat.	*(In Madras City).*	P. Hannyngton, Esq., Deputy Inspector-general of Police, Railways and Criminal Investigation Department.
		G. F. Paddison, Esq., I.C.S., Officer on Special Duty.
		J. H. Melville, Esq., Inspector of European and Training Schools.
		Major J. P. Cameron, I.M.S., Inspector-general of Prisons (*1st time*).

Appendix IV.—Itinerary in India and Burma.

	Institutions visited.	Witnesses examined.
January 1920—*contd.*		
11th Sun.	....	....
12th Mon.	(*In Madras City*).	The Reverend S. D. Bawden, Manager, Erukala Industrial Settlement, Kavali, Nellore District. J. H. A. Weth, Esq., Manager, Kulasekharapatnam Criminal Settlement. M. R. Ry. M. L. Narasinga Rao Pantulu Garu, Non-official Visitor to the District Jail, Berhampur. Major J. P. Cameron, I.M.S. (*2nd time*). The Hon'ble Major-General G. G. Giffard, C.S.I., K.H.S., I.M.S., Surgeon-General with the Government of Madras. M. R. Ry. Diwan Bahadur P. Kesava Pillai Avargal (*1st time*).
13th Tue.	(*In Madras City*).	M. R. Ry. S. Somasundaram Pillai, B.A., B.L., High Court Vakil. Muhammad Sadulla Badsha Sahib Bahadur, Honorary Presidency Magistrate and Non-official Visitor to the Penitentiary, Madras. M. R. Ry. V. O. Chidambaram Pillai. M. R. Ry. B. Ezekiel, Moral Lecturer. The Penitentiary, Madras. M. R. Ry. Diwan Bahadur P. Kesava Pillai Avargal (*2nd time*).
14th Wed.	Criminal Tribes Settlement, Stuartpuram.	Captain Robilliard of the Salvation Army, Manager of the Criminal Tribes Settlement, Stuartpuram.
	Criminal Tribes Settlement, Sitanagaram.	Adjutant Mabe of the Salvation Army, Manager of the Criminal Tribes Settlement, Sitanagaram.
15th Thu.	(*On train*).	
16th Fri.	(*Arrived Calcutta and embarked for Port Blair*).	
17th Sat.	(*On steamer*).	
18th Sun.	(*On steamer*).	
19th Mon.	(*On steamer*).	

(II) *The Andaman Islands.*

20th Tue.	(*Arrived Port Blair*).	....
21st Wed.	Cellure Jail, Association Jail	R. F. Lowis, Esq., Deputy Commissioner, Andaman Commission.
22nd Thu.	Middle Point Palisadeo Station, School, Female Jail.	....

Appendix IV.—Itinerary in India and Burma.

	Institutions visited.	Witnesses examined.
January 1920—*contd.*		
23rd Fri. . .	Phœnix Bay Dockyard, Chatham Sawmill.	Colonel M. W. Douglas, C.I.E., I.A., Chief Commissioner of the Andaman and Nicobar Islands and Superintendent of Port Blair (*1st time*).
24th Sat. . .	Wimberleygunj Station, Bamboo Flat Hospital, Tea Factory and Rubber Plantations.	M. C. C. Bonig, Esq., K.I.H., Divisional Forest Officer, North and South Andamans.
25th Sun. . .	Middle Andamans, Bomlungta and Bindal Stations and Hospital.	....
26th Mon. . .	Haddo Station Hospital and Gardens.	
27th Tue. . .	Viper Island . .	R. Wilkinson, Esq., Assistant Commissioner, Andaman Commission.
	Brick Kilns . .	....
	Andamanese Home . .	....
28th Wed. . .	(*At Port Blair*).	W. R. LeG. Jacob, Esq., Deputy Conservator of Forests, Andaman Islands.
		Sayed Bunyad Hussain, Esq., Revenue Assistant, Andaman Commission.
		Major F. A. Barker, I.M.S., Officiating Senior Medical Officer, Port Blair.
		Military Assistant Surgeon A. E. D. Harvey, I.M.D.
		W. S. Viney, Esq., Officiating Executive Engineer.
29th Thu. . .	(*At Port Blair*).	Subadar-Major Aga Jan, Khan Bahadur, Andaman and Nicobar Military Police.
		Colonel M. W. Douglas (*2nd time*).
30th Fri. . .	(*Embarked for Rangoon*)	
31st Sat. . .	(*On steamer*).	

(III) *Burma.*

February 1920.		
1st Sun. . .	(*Arrived Rangoon*).	
2nd Mon. . .	(*At Rangoon*).	The Reverend J. A. Drysdale, Minister-in-Charge of the Scottish Kirk, Rangoon.
		Maung U. May Oung, M.A., LL.B. (Cantab.), Barrister-at-Law, Rangoon.
		The Hon'ble Mr. A. E. Rigg, I.C.S., Judge, Chief Court of Lower Burma.
		E. C. S. Shuttleworth, Esq., Officiating Inspector-general of Police, Burma.

Appendix IV.—Itinerary in India and Burma.

	Institutions visited.	Witnesses examined.
February 1920—*contd.*		
3rd Tue.	Salvation Army Industrial Institution for Adolescent Prisoners, Kemmendine Road, Rangoon.	Commandant P. Foster and Mrs. Foster of the Salvation Army.
	(*At Rangoon*).	Lieutenant-Colonel J. Entrican, I.M.S., Civil Surgeon, Meiktila, and Superintendent of the Juvenile Jail, Meiktila.
		Lieutenant-Colonel R. H. Castor, I.M.S., Superintendent, Moulmein Jail.
		J. A. Nolan, Esq., Editor of the *Rangoon Times*, Rangoon.
		Major H. H. G. Knapp, M.A., M.D., I.M.S., Inspector-general of Prisons, Burma (*1st time*).
4th Wed.	Rangoon Central Jail	Dr. R. A. Hollingsworth, Superintendent, Central Jail.
	(*At Rangoon*).	Salvation Army Deputation—
		Brigadier D. N. Leib, Divisional Commander, Salvation Army.
		Commander P. Foster, Superintendent, Juvenile-Adult Criminal Institution, and
		Mrs. Foster.
		Major H. H. G. Knapp (*2nd time*).
5th Thu.	Reformatory School, Insein	H. Walkem, Esq., Superintendent, Reformatory School.
	Central Prison, Insein	J. P. Algie, Esq., Superintendent, Central Jail.
		Dr. Sheldon, Medical Officer, Central Jail.
6th Fri.	Juvenile Jail, Meiktila	Captain A. J. Symes, R.A.M.C., Superintendent of Juvenile Jail, Meiktila.
		Maung Than, Chief Jailor, Juvenile Jail, Meiktila.
		Maung Pe Ba, a member of the Juvenile Jail Committee, Meiktila.
		W. Booth-Gravely, Esq., I.C.S., Deputy Commissioner, Meiktila.
7th Sat.	Central Jail, Mandalay	Major E. T. Harris, I.M.S., Superintendent.
8th Sun.	....	....
9th Mon.	Extramural Prison, Maymyo	Major S. T. Crump, I.M.S., Superintendent, Extramural Prison.
10th Tue.	(*On train*).	
11th Wed.	(*Embarked for Calcutta*).	
12th Thu.	(*On steamer*)	

Appendix IV.—Itinerary in India and Burma.

	Institutions visited.	Witnesses examined.
	(IV) *Bengal.*	
February 1920—*contd.*		
13th Fri.	(*Arrived Calcutta*).	
14th Sat.	Children's Court and Detention Home, Circular Road, Calcutta.	
15th Sun.	....	....
16th Mon.	Presidency Jail, Calcutta	Lieutenant-Colonel W. G. Hamilton, Superintendent, Presidency Jail (*1st time*).
	Juvenile Jail, Alipore	Major M. Galvin, I.M.D., Superintendent, Juvenile Jail.
17th Tue.	Central Jail, Alipore	Lieutenant-Colonel D. Green, I.M.S., Superintendent, Central Jail.
	Subsidiary Jail, Barrackpore	....
18th Wed.	(*In Calcutta*).	W. A. Marr, Esq., I.C.S., Magistrate-Collector of Rangpur. Sir Kailash Chandra Bose, Kt., C.I.E., O.B.E., Medical Practitioner, Calcutta. J. Niyogi, Esq., Organiser of the Calcutta After-care Association. W. D. R. Prentice, Esq., I.C.S., District Magistrate, 24-Parganas. The Hon'ble Dr. Abdullá-al-Mamum Suhrawardy, M.A., LL.D., Barrister-at-Law, Member of the Bengal Legislative Council.
19th Thu.	(*In Calcutta*).	R. B. Hyde, Esq., Officiating Inspector-general of Police, Bengal. P. Roy Chaudhuri, Esq., Barrister-at-Law, Secretary, Calcutta Prisoners' Aid Society. B. Mitra, Esq., Agent, Calcutta Prisoners' Aid Society.
20th Fri.	Released Prisoners' Workshop, Calcutta. (*In Calcutta*).	.... J. S. Wilson, Esq., Deputy Commissioner of Police, Calcutta. Lieutenant-Colonel W. G. Hamilton, I.M.S. (*2nd time*). Lieutenant-Colonel F. S. C. Thompson, I.M.S., Inspector-general of Prisons, Bengal.
21st Sat.	(*In Calcutta*).	The Hon'ble Colonel J. Garvie, I.M.S., Inspector-general of Prisons and Inspector-general of Civil Hospitals, Assam. Lieutenant-Colonel H. S. Wood, I.M.S., Superintendent, Sylhet Jail. Rai Nalini Prasad Neogi Bahadur, Superintendent of Jail, Gauhati.

Appendix IV.—Itinerary in India and Burma.

	Institutions visited.	Witnesses examined.
February 1920—*contd.*		
22nd Sun. . . .		....
23rd Mon. . . .	Central Jail, Midnapore	A. H. W. Leonard, Esq., Superintendent, Central Jail, Midnapore.
24th Tue. . . .	Subsidiary Jail, Serampur District Jail, Burdwan.	Dr. S. C. Dé, M.B., Superintendent, District Jail.

(V) *Bihar and Orissa.*

25th Wed. . .	Central Jail, Hazaribagh	Colonel B. Chatterton, I.M.S., Superintendent, Central Jail.
	Reformatory School, Hazaribagh.	W. R. L. D'Silva, Esq., acting Superintendent, Reformatory School.
		G. E. Fawcus, Esq., Director of Public Instruction, Bihar and Orissa.
26th Thu. . . .	Central Jail, Bhagalpur	Major W. Gillitt, C.I.E., I.M.S., Superintendent, Central Jail.
27th Fri. . . .	Juvenile Jail, Monghyr	Rai Benode Behari Ghosal Bahadur, Superintendent, Juvenile Jail.
28th Sat. . . .	(*At Patna*).	Lieutenant-Colonel J. C. Vaughan, I.M.S., Superintendent, Ranchi Jail. The Hon'ble Rai Bahadur Dwarka Nath, Member, Legislative Council, Bihar and Orissa. The Hon'ble Khan Bahadur Khwaja Muhammad Nur, Member, Legislative Council, Bihar and Orissa. The Hon'ble Rai Bahadur Sarat Chandra Sen, Member, Legislative Council, Bihar and Orissa.
29th Sun. . . .	(*At Patna*).	....
March 1920.		
1st Mon. . . .	District Jail, Patna	Colonel C. E. Sunder, I.M.S., Superintendent, District Jail, Patna.
	(*At Patna*).	Babu B. N. Banerji, B.A., Master, Baptist Mission High School, Cuttack. The Hon'ble Mr. R. Dundas, Inspector-general of Police, Bihar and Orissa. The Hon'ble Lieutenant-Colonel B. J. Singh, C.I.E., I.M.S., Inspector-general of Prisons, Bihar and Orissa.

(VI) *The Central Provinces.*

2nd Tue. . . .	Juvenile Jail, Narsinghpur	Dr. Tambe, Superintendent, Juvenile Jail.

Appendix IV.—Itinerary in India and Burma.

March 1920—*contd.*	Institutions visited.	Witnesses examined.
3rd Wed.	Central Jail, Jubbulpore	Captain R. T. Rodgers, I.M.D., Superintendent, Central Jail.
	Reformatory School, Jubbulpore.	K. H. Datey, Esq., Superintendent, Reformatory School.
	Robertson Industrial School	
4th Thu.	(*On train*).	
5th Fri.	(*At Nagpur*).	H. Collins, Esq., Superintendent, Central Jail, Raipur.
		N. K. Vaidya, B.A., B.L., Esq., Pleader, Nagpur.
		Vishnu Vasudeo Kane, Esq., Warora.
6th Sat.	Central Jail, Nagpur	E. E. Thomas, Esq., Superintendent, Central Jail.
		Dr. C. R. Edibam, M.B., B.S. (Bom.), Medical Officer, Central Jail.
	(*At Nagpur*).	Lieutenant-Colonel C. H. Bensley, I.M.S., Inspector-general of Prisons, Central Provinces.

(VII) *The Bombay Presidency.*

7th Sun.	....	
8th Mon.	House of Correction	F. B. Plunkett, Esq., Superintendent, House of Correction.
	....	Lt.-Col. Khareghat, I.M.S., Medical Officer, House of Correction.
	Salvation Army Home.	Ensign Cown and Captain Brown, Salvation Army.
	Common Prison and Civil Jail.	R. M. Lafa, Esq., Superintendent, Common Prison and Civil Jail.
	The David Sassoon Reformatory and Industrial Institution, Matunga.	House, Esq., Superintendent, Sasson Institution, Bombay.
9th Tue.	(*In Bombay City*).	T. A. Kulkarni, Esq., Secretary, Social Service League, Bombay.
		H. P. Mody, Esq., Honorary Secretary, Released Prisoners' Aid Society, Bombay.
		Colonel Hipsey of the Salvation Army, Bombay.
		Sardar S. V. Natu, Poona.
10th Wed.	(*In Bombay City*).	N. Hall, Esq., I.S.O., late Superintendent, Deccan Convict Gang.
		Jehangir H. Kothari, Esq., O.B.E., Non-official Visitor, Karachi.
		Lieutenant-Colonel F. O. N. Mell, C.I.E., M.B., C.M., D.P.H., I.M.S., Inspector-general of Prisons, Bombay Presidency.

Appendix IV.—Itinerary in India and Burma.

	Institutions visited.	Witnesses examined.
March 1920—*contd.*		
11th Tha. . . .	(*In Bombay City*)	The Hon'ble Justice Sir J. J. Heaton, Kt., I.C.S., Vice-President, Released Prisoners' Aid Society, Bombay, and Judge, High Court, Bombay.
		N. M. Mazumdar, Esq., Representative of the Indian Merchants' Chamber and Bureau, Bombay.
12th Fri. . . .	Yeravda Central Jail. Poona.	Major S. W. Jones, I.M.S., Superintendent, Central Jail.
13th Sat. . . .	Yeravda Reformatory School, Poona Sub-jail.	M. G. Dubal, Esq., L.M.E., Superintendent, Reformatory School.
		W. F. Hudson, Esq., I.C.S., District Magistrate, Poona.
		T. J. Reed, Esq., Superintendent, Juvenile Jail, Dharwar.
14th Sun. . . .	....	....
15th Mon. . . .	Deccan Extra-mural Prison, Visapur.	C. H. Brierley, Esq., M.B.E., Superintendent, Deccan Extra-mural Prison at Visapur.
	Criminal Settlement for Hurs, Visapur.	....
16th Tue. . . .	Criminal Tribes Settlement Sholapur.	Revd. H. H. Strutton, Manager, Criminal Tribes Settlement, Sholapur.
	Sub-jail Sholapur . . .	....
17th Wed. . . .	Criminal Tribes Settlement, Bijapur.	F. W. O'Gorman, Special Officer-in-Charge of Settlement for Criminal Tribes, Bombay.
18th Thu. . . .	District Jail, Bijapur . .	Dr. deQuadros, Superintendent.
19th Fri. . . .	Juvenile Jail, Dharwar . .	— Wickham, Esq., Superintendent.
20th Sat. . . .	New Central Jail (under construction,) Belgaum.	....
	Sub-jail Sholapur. . . .	....
21st Sun. . . .	(*On train*).	
22nd Mon. . . .	Ahmedabad Central Jail, Sabarmati.	Khan Bahadur N. R. Wachha, Superintendent.

(VIII) *The United Provinces.*

23rd Tue. . . .	(*On train*).	
24th Wed. . . .	Naini Central Jail . . .	....
25th Thu. . . .	Criminal Tribes Settlement, Cawnpore.	Ensign Smith of the Salvation Army (at Settlement).
	District Jail, Cawnpore .	....

Appendix IV.—Itinerary in India and Burma.

	Institutions visited.	Witnesses examined.
March 1920—*concld.*		
26th Fri.	(*At Lucknow*).	Sardar Sahib Sardar Ganda Singh, Jailor, Central Prison, Benares.
		Sayid Jalib Dehlavi, Editor 'The Hamdam,' Lucknow.
		Maulvi Sayid Fazlul Hasan Hasrat Mohani, Editor, "Urdu-i-Moalla," Aligarh.
		Dr. S. L. Sharma, President, All-India Sub-Assistant Surgeons' Association.
		Dr. Kunj Behari Lal Varma, L.M.P., Medical Practitioner, Meerut.
27th Sat.	(*At Lucknow*).	Pandit Lakshmi Datt, Editor, "Musafir", Agra.
		Lieutenant-Colonel G. Hutcheson, M.B., I.M.S., Superintendent, District Jail, Allahabad.
		Lieutenant-Colonel J. M. Woolley, I.M.S., Inspector-General of Prisons, the United Provinces of Agra and Oudh (*1st time*).
28th Sun.	....	....
29th Mon.	Lucknow Central Jail	Major J. E. Clements, M.B., I.M.S., Superintendent, Central Jail.
	(*At Lucknow*).	Lieutenant-Colonel J. M. Woolley, I.M.S. (*2nd time*).
		Louis Stuart, Esq., C.I.E., I.C.S., First Additional Judicial Commissioner, Oudh.
30th Tue.	Central Jail, Agra	....
31st Wed.	Bareilly Central Jail	L. M. Stubbs, Esq., I.C.S., District Magistrate, Bareilly.
	Bareilly Juvenile Jail	Major Forrester, I.M.D., Superintendent, Juvenile Jail.
		Rai Bahadur Mithan Lal, Jailor, Juvenile Jail.
		Lieutenant-Colonel J. M. Woolley, I.M.S. (*3rd time*).
April 1920.		
1st Thu.	Fazalpur Criminal Tribes Settlement, Moradabad.	Brigadier Jivanandham of the Salvation Army, Manager, Fazalpur Criminal Tribes Settlement.
2nd Good Friday	Criminal Tribes Settlement, Najibabad.	Captain and Mrs. Sheard of the Salvation Army, Managers, Criminal Settlement, Najibabad.
		R. E. Coupland, Esq., Criminal Tribes Settlement Officer, United Provinces.

Appendix IV.—Itinerary in India and Burma.

	Institutions visited.	Witnesses examined.
	(IX) *The Delhi Province.*	
April 1920—*contd.*		
3rd Sat.	District Jail, Delhi	Major A. D. Stewart, I.M.S., Superintendent, District Jail.
	Reformatory School, Delhi	T. S. Farmer, Esq., I.E.S., Superintendent, Reformatory School.
4th Sun.	....	....
	(X) *The Punjab.*	
5th Easter Monday	Criminal Tribes Settlement, Dhariwal.	Muhammad Hamid Sahib Bahadur, Superintendent.
6th Tue.	Criminal Tribes Settlement, Amritsar.	Sardar Sahib Sardar Hari Singh, B.A., P.C.S., Deputy Commissioner for Criminal Tribes, Punjab (*1st time*).
		Harkishen Lal, Esq., Barrister-at-Law, Lahore.
7th Wed.	(*At Lahore*).	J. C. Vaughan, Esq., Barrister-at-Law, Lahore.
		Rai Bahadur Pandit Hari Kishen Kaul, Commissioner, Rawalpindi Division.
		Bhai Sundar Singh, Lyallpur.
		Pandit Ram Bhajdat Chaudhuri, Pleader, Lahore.
8th Thu.	(*At Lahore*).	Rai Sahib Lala Khazan Chand, Honorary Secretary, Punjab Provincial Committee of the All-India Sub-Assistant Surgeons' Association.
		Lala Duni Chand, Barrister-at-Law, Lahore.
		Dr. K. C. Hiteshi, M.D. (Hom.), Principal, Homeopathic Medical College, Lahore.
		Sardar Sahib Sardar Hari Singh (*2nd time*).
9th Fri.	Borstal Central Jail, Lahore	Major W. Finlayson, I.M.S., Superintendent, Borstal Jail.
		Major R. M. Dalziel, I.M.S., Inspector-general of Prisons, Punjab.
10th Sat.	Central Jail, Lahore	Sardar Sahib Hukam Singh, Jailor, Borstal Jail.
	Female Jail, Lahore	....
	Moghalpur Criminal Tribes Settlement, Lahore.	....
11th Sun.	Montgomery Central Jail	Major Courtney, I.M.D., Superintendent, Central Jail.
	Okara Criminal Tribes Settlement.	....

Appendix IV.—Itinerary in India and Burma.

	Institutions visited.	Witnesses examined.
(XI) *The North-West Frontier Province.*		
April 1920—*concld.*		
12th Mon.	(*On train*).	
13th Tue.	District Jail, Peshawar	....
14th Wed.		F. P. Rennie, Esq., I.C.S., Judicial Commissioner, North-West Frontier Province, Peshawar. The Hon'ble Mr. P. J. G. Pipon, C.I.E., I.C.S., Sessions Judge, Peshawar Division. Lieutenant-Colonel J. H. Hugo, I.M.S., Chief Medical Officer, North-West Frontier Province.
15th Thu.	(*On train*).	
16th Fri.	(*Arrived Simla.*)	
May 1920—*concld.*		
27th Thu.	....	O. H. B. Starte, Esq., I.C.S., Special Officer in charge of Criminal Tribes Settlements, Bombay.

APPENDIX V.

CORRESPONDENCE WITH CHAMBERS OF COMMERCE.

(Referred to in paragraph 207 of the Report.)

(i) The Madras Presidency.

(i) *Letter to the Chairmen, Chambers of Commerce, Madras, Tuticorin, Cochin, Godavari Chamber of Commerce, Cocanada, European Chamber of Commerce, Cocanada, Southern India Chamber of Commerce, Madras, No. 35-C-1, dated the 6th January 1920.*

I am directed to forward a copy of the Paper of Interrogatories prepared by the Indian Jails Committee and to invite special attention to question IX therein on the subject of providing labour for prisoners in jails. I am to request that, if your Chamber wishes to make any representations on the subject of jail labour, you will be so good as to furnish the Government with its answers at a very early date for transmission to the Committee.

2. I am to add that, if your Chamber wishes to depute a representative to give oral evidence before the Committee, an endeavour will be made to arrange a convenient date for the purpose at Calcutta, Delhi or Simla. The Committee will probably stay in Madras from the 7th to the 13th instant.

(ii) *From the Hon'ble Secretary, Godavari Chamber of Commerce, Cocanada, No. P. 133-1920, dated the 11th January 1920.*

With reference to your letter No. 35-C-1, dated 6th January, on the subject of jail labour, I have the honour to inform you that this Chamber is not in a position to make any representation on the subject or to depute a representative to give oral evidence before the Committee.

(iii) *From the Secretary, Chamber of Commerce, Cocanada, No. G. 3-3, dated the 16th January 1920.*

With reference to your letter No. 35-C-1, Home (Judicial) Department, dated 6th instant, *re* providing labour for prisoners in jails, I am directed to state that the Chamber is opposed to power-driven plant in jails and is further of opinion that labour in jail should be employed as little as possible in competition with private enterprise.

(iv) *From the Secretary, the Chamber of Commerce, Madras, dated the 24th January 1920.*

In reply to your letter No. 35-C-1, dated the 6th instant, I am directed to say that my Chamber has consistently opposed the employment of power-driven machinery in jails and is still of opinion that private enterprise should not be hampered by the sale, in the open market, of articles of jail manufacture.

Appendix V.—Correspondence with Chambers of Commerce.

I am to invite your attention to a Resolution passed at the Conference of Chambers of Commerce of the Empire held at Sydney as far back as the year 1909 in the following terms :—

> "Whereas private enterprise has the right to be protected against the competition of articles manufactured by convict labour at an artificially lowered cost of production; whereas there are indications of a tendency in certain parts of the Empire to develop the commercial element of jail labour to the injury of private manufacturers, this Congress approves the principle that the produce of jail manufacture shall be used in government service only, but in no case should power-machinery be employed in jails for the production of articles of trade."

That it is absolutely impossible for private enterprise to compete with jail manufacture is obvious and in the opinion of this Chamber jail competition is indefensible from any point of view. It is understood that convicts receive a certain remuneration for the work they perform but this amount is insignificant in comparison with the expenditure incurred in the manufacture of identical articles by private concerns, whose employees have to be paid their standard wages which, as Government are aware, have risen considerably during the war. My Chamber considers that this one argument alone is sufficient proof that the sale of jail manufactured articles in the open market tends to discourage rather than foster industrial enterprise in this country. Furthermore, the employment of power-driven machinery in jails leads to an increase in the demand for raw material which not only results in a rise of prices, but may even go to the extent of denuding the market of such material to the detriment of general trade.

In conclusion, I am to put forward, for the sympathetic consideration of Government, the proposal that the produce of jail manufacture should be utilised to meet government demands only, that under no conditions whatsoever should power-machinery be employed in jails for the production of articles of trade and to express the hope that Government will give the matter careful consideration and be pleased to remove a long-standing grievance.

(v) *From the Secretary, the Chamber of Commerce, Cochin, dated the 22nd January 1920.*

I have the honour to acknowledge the receipt of your letter No. 35-C-1, dated the 6th instant, forwarding copy of the paper of interrogatories prepared by the Indian Jails Committee and to inform you that the paper has been circulated to the Members of this Chamber and was discussed at a meeting held this morning, when I was requested to reply to question IX (*a*) that this Chamber have no criticisms or suggestions to offer in regard to the present method of providing labour for prisoners, (*b*) but that this Chamber consider the employment of power-driven machinery in jails to be not justifiable.

(vi) *From the Chairman, Tuticorin Chamber of Commerce, dated the 3rd February 1920.*

With reference to your letters Nos. 35-C-1, dated 6th January and 35-C-2, dated 29th January 1920 on the subject of Jail Labour, I have the honour to state that the Chamber has little knowledge of the present methods of jail labour and is therefore unable to express any decided views.

I am directed to say however that jail labour, whether the product is from hand work or machinery, should not be used to compete with private enterprise.

(*ii*) BENGAL.

Letter from the Bengal National Chamber of Commerce, Calcutta, No. 43, dated the 18th February 1920, to the Government of Bengal, Political Department.

With reference to your letter No. 372-I.J., dated the 24th January last, I am directed by the Committee of the Bengal National Chamber of Commerce to submit the following observations with regard to question No. IX of the paper of Interrogatories enclosed therewith regarding the method of providing labour for prisoners. The employment of prisoners in jail should, in the opinion of the Committee, be regulated with the object of removing the tendency for indolence and erecting a habit for active life and to train the convicts in some paying business suiting their

Appendix V.—Correspondence with Chambers of Commerce.

respective conditions of life, which would, when released from jail, offer them profitable occupation and opportunities for earning their livelihood in an honest way. In India, except in a few limited centres, power-driven industries are very small. From this consideration and also from that of the conditions of life of a jail and further of the employees in the mills, as obtaining at present, the Committee do not consider employment of power-driven machinery in jails justifiable. A convict under the conditions of life in India has to live more or less an exclusive life. This and the apprehension that an unreclaimed criminal, though released from jail, might easily contaminate his co-labourers if employed in a large factory, point to the inexpediency of the employment of power-driven machinery in jails. They may, however, be employed, after careful consideration of the conditions of life of the prisoner, his habits and institutions, in small power-driven machineries such as of printing press.

The Committee do not propose to send up any representative to give oral evidence before the Indian Jails Committee.

(*iii*) The Central Provinces.

Letter from Mr. S. B. Mehta, the Manager, Central India Spinning, Weaving and Manufacturing Company, Ltd., Nagpur, to the Under Secretary to the Hon'ble the Chief Commissioner, Central Provinces, Nagpur, No. 4868, dated the 10th February 1920.

Re : Indian Jails Committee.—I regret the delay in acknowledging receipt of your favour No. 76A-V of the 20th ultimo, forwarding extract paragraph from letter from the Secretary, Indian Jails Committee, and copy of the Paper of Interrogatories. I am afraid I know too little of the working of jails to be able to offer any criticism on the methods of jail administration. Moreover, with regard to Interrogatory IX (*b*), my opinion is power-driven machinery ought not to be introduced in jails, as such introduction would lead to increased production which in its train would bring competition with industrial concerns for disposal of the extra production. I do not object to the introduction of every possible industry in the jails, but on no account should jails get converted into trading concerns. To my mind jails should as far as possible cater to the needs of government departments. There is also another aspect of the question on which my objection is based. I think attendance upon power-driven machines does not involve such arduous and toilsome work nor requires such close attention as hand labour and in my opinion houses of correction should not introduce devices which would tend to minimise the rigours of labour. With regard to the second paragraph of your letter, I regret I am not prepared to give oral or any evidence before the Committee for reasons given in the earlier portion of my letter.

(*iv*) The Bombay Presidency.

Letter from J. K. Mehta, Esq., M.A., Secretary, the Indian Merchants' Chamber and Bureau, Bombay, to J. Crerar, Esq., C.I.E., Secretary to the Government of Bombay, Judicial Department, Bombay, No. T.-550, dated Bombay, the 10th February 1920.

With reference to your letter of the 28th January 1920, I am directed to inform you that my Committee are in agreement with the Industrial Commission in thinking that in jail industries only manual labour should be allowed. They consider the establishment of power factories inside jail and the extensive employment of machinery as undesirable. I am directed further to state that Mr. N. M. Mazumdar will represent this Chamber to give oral evidence before the Indian Jails Committee.

(*v*) The United Provinces.

(i) *Letter from the Secretary, United Provinces Chamber of Commerce, to the Secretary to Government, United Provinces, Judicial (Criminal) Department, dated 21st February 1920.*

I am directed by the Committee of the Chamber to acknowledge the receipt of your letter No. 577-VI-531, dated the 28th January 1920 inviting the Chamber to express its views on the

Appendix V.—Correspondence with Chambers of Commerce.

question of 'Labour for Prisoners' which forms the subject of question No. IX of the Indian Jail Committee's questionnaire.

In reply I am say that the existing system of providing labour for prisoners is, in the opinion of my Committee, defective and they would offer the following few suggestions for its improvement.

1. One of the principal objects of imprisonment should be reformation. The prisoners should, therefore, be provided with such work as they can, after release, turn to account, and as can help them to earn an honest livelihood and maintain a good character. The majority of jail prisoners are neither professionals nor of a desperate character and are quite amenable to discipline.

2. From a study of Jail Reports it appears that considerably more than half of the prisoners are of the agriculturist class, and for the most part return to their own profession after release. My Committee, therefore, would recommend that a larger number of them should be employed in agriculture, which is a healthy occupation, generally suitable to villagers. In order to introduce agriculture on a larger scale it would be necessary to have large plots of land attached to the jails.

3. My Committee generally approve of the various arts and crafts on which prisoners are employed in jails and would recommend the introduction of more varieties, particularly such as require individual skill. Some training will be necessary for this purpose, and as the jail staff is not capable of undertaking the training work, some outside help should be engaged.

4. The objects should be not only to keep the convicts employed somehow, but to induce them to take an intelligent interest in their work and produce in them the habits of industry.

5. As for the introduction of power-driven machinery, my Committee is against its introduction on a scale such as would make jail industries serious competitors with the other industries of the district. Some machinery may be employed but it should be for merely demonstrative and instructional purposes. The object should always be to provide useful training for the convicts and not to set up regular industries on a commercial scale. The policy to be adopted in this respect should be the same as is pursued in the technical and industrial schools of the Government.

6. My Committee do not desire to give any oral evidence before the Jail Committee.

(ii) *Copy of a letter from the Secretary, Upper India Chamber of Commerce, Cawnpore, to the Secretary to Government, United Provinces, dated the 12th March 1920.*

I am directed to refer to your No. 577-VI-531, dated the 28th January, and to question IX of the Interrogatories prepared by the Indian Jails Committee. Before replying specifically to the two enquiries contained within this question, my Committee desire to make a brief reference to the past history of the subject of the competition of Indian jail industry with private enterprise.

2. It is perhaps superfluous to refer to the Government of India Resolution of 1882, which laid down the Government policy in regard to jail labour, or to the later Resolution of 1886 which, though it largely subverted the principles laid down in 1882, still maintained such useful principles as the condemnation of the use of steam-driven machinery. These Resolutions were issued before this chamber came into existence, but are historical. In 1893 the chamber protested against the proposal to establish premises at Montgomery (Punjab) for the manufacture of woollen goods by machinery, the labour to be furnished from prisons. In 1895 representations were made to the United Provinces Government relative to the competition with private enterprise of the carpet manufacture in the Agra Jail and to the enterprise of the Fatehgarh Central Jail authorities in hawking jail manufactures round the Province. One result of these representations was the admission by the United Provinces Government that civil departments of Government should supply their requirements of tents, durries, etc., from central and other prisons. The Inspector-general of Prisons also issued orders that jail goods were in no case to be sold at prices below the prevailing market value in the neighbourhood.

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3. On the 10th August, 1906, the Government of India issued an important letter, No. 154, on the subject of the industries which are carried on in jails in India, with special reference to their competition with similar industries carried on by private enterprise. This was referred to this Chamber for opinion and the Chamber's reply of the 22nd April, 1907, contains a clear and precise statement of the views held by the commercial community on the six points of principle set forth in the Government of India's letter. For convenience I enclose a copy of the chamber's letter of the 22nd April, 1917. [*Vide* Enclosure (B) below.]

4. In September, 1909, there was held at Sydney the Seventh Congress of Chambers of Commerce of the Empire and on the motion of the Hon'ble Mr. A. McRobert (now Sir Alexander McRobert, Kt., K.B.E., LL.D.), a delegate from this chamber, the following resolution was adopted:—"Whereas private enterprise has the right to be protected against the competition of articles of trade manufactured by convict labour at an artificially lowered cost of production; and whereas there are indications of a tendency in certain parts of the Empire to develop the commercial element of jail labour to the injury of private manufacturers; this Congress approves the principle that the produce of jail manufacture shall be used in government service only, but in no case should power machinery be employed in jails for the production of articles of trade." I attach, as an enclosure to this letter, the full proceedings of the Congress on this motion. It will probably be of interest to the Jails Committee as showing the views of other Indian commercial men on this point.

5. Having thus indicated the past policy of the chamber on the subject, I submit the specific replies of my committee to the two points of No. IX of the Indian Jails Committee's interrogatories:—

(*a*) *Q.*—Do you approve of the present methods of providing labour for prisoners, and have you any criticisms or suggestions to offer on the subject?—*A.*—The provision of labour for prisoners should invariably be governed by the following principles:—(*i*) that jail labour must be penal in character and not always intra-mural; (*ii*) that the consumption of all jail products must be strictly confined to government departments and that the price of jail-made articles should not be lower than the price prevailing in the neighbourhood for similar articles produced by private enterprise; (*iii*) that power-driven machinery must not be employed to assist jail labour.

(*b*) *Q.*—Do you consider that the employment of power-driven machinery in jails is justifiable; if so, under what conditions and with what limitations?—*A.*—The employment of power-driven machinery in jails is entirely without justification.

Enclosure (A): *Extract from the proceedings of the seventh Congress of Chambers of Commerce of the Empire held in Sydney in September, 1909.*

Gaol Manufactures.

The Hon'ble Mr. A. McRobert (Upper India) moved:—"Whereas private enterprise has the right to be protected against the competition of articles of trade manufactured by convict labour at an artificially lowered cost of production: and whereas there are indications of a tendency in certain parts of the Empire to develop the commercial element of gaol labour to the injury of private manufacturers; this Congress approves the principle that state prisoners should be employed only upon tasks which possess a distinctly penal character, and in no case should power machinery be employed in gaols for the production of articles of trade." He said: I think you will all agree that gaols should not be converted into profit-making institutions. Our prime objection is to the introduction of power machinery. A Committee of the House of Lords considered this subject in 1863, and they laid down the principle that a profitable return from industrial employment ought not to be made the test of prison efficiency. Now prisons are government institutions. They publish no balance sheets. We never know what they are doing except when they come into collision with the private manufacturer. No debit balances are carried forward, and a fresh start is made on April 1st of every year. If the manufacturer makes a loss during one year, that loss hangs round his neck like a millstone till it is wiped out. That is not so with a government institution. However, I will not detain you, because at this late hour it is impossible to go over all the arguments that one might use in illustrating the disabilities under which private manufacturers

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labour in connection with gaol competition. I would simply ask you to adopt this resolution and condemn the employment of power machinery in gaols. (Cheers.)

Captain John Harwood (Blackburn): I have great pleasure in seconding this resolution. I have in my mind's eye a gaol in India that is a large cotton manufacturing concern. Not only do they compete in the railway and government contracts, but they actually came to Cawnpore and took away some of our native experts from there to control the labour in the gaols. Another gaol was manufacturing woollen goods by machinery. I think this resolution, if passed by the Congress, would do good. It would back up the Indian Government encouraging private enterprise. I have pleasure in seconding the resolution. (Cheers.)

Mr. Percy T. Berry (Brisbane): I wish to move an amendment to this resolution. It refers to the third paragraph only. My reason for doing so is that I consider the part refering to "penal labour only" is wrong. (Hear, hear.) I think we should be making a great mistake if we attempted to keep our criminals criminals. We want to turn them into valuable workers. I have it on the authority of the Governor of Queensland gaol that, since he has introduced decent and instructive labour into the gaol, he has received letters from many parts, from old convicts, stating that they have been able to enter upon a career of honest life and earn good wages on the strength of the knowledge they obtained in the gaol. (Hear, hear.) The amendment I propose is this in the third clause:—"That this Congress approves the principle that the produce of gaol manufacture should be used in government service only, but in no case should power machinery be employed in gaols for the production of articles of trade." I would be glad if Mr. McRobert could accept that amendment.

The Hon'ble J. G. Jenkins (Australasian Chamber in London): I desire to second Mr. Berry's amendment. I do not want to interfere with the object of Mr. McRobert's motion. I believe India has a strong case. Our case in Australia, England, and other places is this: we must consider the individual that is sent to prison. Do not keep your prisoner idle. Make him work at something, but do not let prison labour compete in the general acceptation of the term. I do not believe in introducing expensive machinery into prisons to turn out goods rapidly, but I do believe, as one who was the head of the penal department in one of the States for some years as Chief Secretary, that it is in the interests of humanity that you should keep the individual who is sent to prison busily at work. If he is a young man he has a fine chance of getting into a trade which will benefit him all his life.

The Hon'ble Mr. A. McRobert (Upper India) said he would accept the amendment. The motion, as amended, was carried on the voices.

Enclosure (B): *Letter from the Secretary, Upper India Chamber of Commerce, Cawnpore, to the Under Secretary to Government, United Provinces, dated Cawnpore, the 22nd April 1907.*

I am directed to address you with further reference to your letter No. 3572—VI-252B-7, dated 13th November last, in regard to the principles which have been laid down as regulating the policy of Government in the matter of the employment of long-term prisoners, and to express my committee's regret at the delay that has occurred in sending this reply. This Chamber has always maintained that in the matter of the employment of penal labour revenue considerations should be subordinated to the right of private enterprise to be safeguarded against State competition. This was practically admitted in the Government Resolution of 22nd May 1882, and my committee believe that claims in this behalf are as strong to-day as they were twenty-five years ago. Unfortunately, as they think, the policy underlying the resolution of 1882 has been reversed, and I shall now proceed to deal with the more important principles which Government appear to have accepted as determining their future policy towards the employment of prisoners, and which are set forth in a letter from the Home Department to the Secretary to Government, United Provinces, No. 154, dated the 10th August 1906.

1. "Extra-mural labour cannot be the principal mode of employment of long-term prisoners, who must therefore be employed intra-murally." My committee desire to record an emphatic dissent from the acceptance of the principle that penal labour must be exclusively employed upon intra-mural

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industrial pursuits on a large scale, or that the State jails should be considered as commercial undertakings, expected to be self-supporting, if not actually contributing to the revenues of the country. They trust that in reviewing this important question His Honour the Lieutenant-Governor will particularly consider whether the policy indicated in the Government of India's Resolution of September 1882 must remain discarded as incapable of adoption. My committee are strongly of opinion that extra-mural labour might with advantage be much more extensively employed than is now the case, and they venture to think that earthwork in connexion with railway projects, irrigation undertakings, road-making and repairs, and other public works in rural areas, on which large bodies of men are required for considerable periods, provide most suitable openings for the employment of penal labour. Even in the Government of India's Resolution of 7th May 1886, which was undoubtedly designed to promote the commercial element in jail administration, it was admitted that this form of employment had been allowed to drop too much out of sight, and that convicts might with advantage be utilised on public works under certain conditions. It is easy to understand why the employment of small gangs of convicts on station roads or municipal works stands condemned on the gound that it would be detrimental to discipline, but it appears to my committee that sound reason can be adduced for the employment of penal labour on roads and other works in rural areas. My committee therefore venture to recommend that the whole question of extra-mural labour for long-term prisoners should be reconsidered. They cannot avoid the conviction that the attempts of Government to deal fairly with private enterprise, by diverting jail industries into channels that would not lead to serious competition, have been in a great measure frustrated by enterprising jail officials over-zealous in their desire to show favourable financial results.

2. "In central jails there must be well regulated forms of industrial employment on a large scale." My committee strongly protest against industries already organized by private enterprise, such as the spinning and weaving of cotton, wool, silk, &c., by power machinery, being encroached upon, and although a reversion to extra-mural labour may still be regarded as impracticable in many cases, it is submitted that the above manufactures by means of steam machinery in jails should be absolutely interdicted. I am to suggest that a most suitable occupation for criminals would be the hand-loom weaving industry, which is understood to be now possible of resuscitation owing to the material progress that has been made in adapting modern hand-looms to the conditions of the Indian village weaver. This would, without detrimentally affecting the mill industry, confer on criminals all the advantages which it is maintained are bestowed on them by acquiring a practical knowledge of cloth-making by steam machinery, and on the completion of his term of imprisonment the released convict would have it in his power to earn an honest livelihood by plying the handicraft he has learnt during his confinement.

3. "Jail industries must not compete injuriously with private capitalists in the neighbourhood." As long as manufacturing by steam machinery in jails is permitted, jail industries must necessarily compete injuriously, and in many instances possibly ruinously, with private enterprise. In the Government Resolution of 1882 it is stated: "There is strong evidence that in many places the products of jail labour do supplant and compete with private industry in the local markets to a very serious extent." In the last quarter of a century this competition, it is believed, has increased to an alarming extent, and I am directed to draw special attention to the case of the Montgomery Jail in the Punjab, where the spinning of woollen yarn and weaving of woollen blankets by steam machinery is carried on on an extensive scale. It has been announced that an allotment of Rs. 60,000 was made for the installation of new woollen spinning machinery at this jail, and a rumour, believed to be well-founded, has reached my committee to the effect that the intention of Government was to earmark a further sum for the same purpose in the financial estimates of the Punjab Government for 1907-08, the object being doubtless to render the jail capable of supplying the requirements in blankets of departments of the Government other than those originally served by the jails. It is anticipated that the effect on private manufacturers will be that a large proportion of the machinery originally installed by them to cope with the government demand for woollen blankets will shortly be lying idle, as the consuming departments of Government will be able to obtain their requirements from the Punjab jails. It has also been stated that one of the Bengal jails now tenders annually for the supply of woollen blankets to the Supply and Transport Corps (at Lahore), and it appears not improbable that at no distant date the jails of Bengal and the Punjab will be the only tenderers for government requirements in these articles, and a valuable source of supply, which has rendered good service in the past, will be no longer available to the Military Department in times of emergency. I

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am also directed to refer to the case of the carpet industry, the expansion of which, it has been authoritatively asserted, is being seriously restricted by the successful competition of jails. The declared policy of Government has been to assist in the introduction of any promising industry, and as soon as it has been established on the sound basis to leave its development to private enterprise. The deliberate maintenance of State competition with private enterprise on a formidable scale and the capture of the important marks represented by the government consuming departments, signalizes a reversal of policy which my committee consider inconsistent with the assurances conveyed in various resolutions on this subject.

4. "Jail industries must not be converted into steam factories. The use of steam machinery is not prohibited, but all extensions of substantial magnitude must be submitted to the Government of India for sanction." In this connection my committee are entirely in agreement with the Government Resolution of 1882, which laid down that the use of steam machinery in any State jail is quite indefensible, and that where such plant had been installed, it should at once be disposed of. They readily concur in the view that the labour in jails should be productive, but not that it should be productive to the extent of hindering the growth of private industries. Any measure that restricts the productive employment of capital, and therefore the accumulation of capital in this country, cannot on broad economic grounds be held to benefit the State.

5. "The penal element must be fully maintained." My committee submit that profit-earning considerations are, under existing conditions, allowed to predominate in determining the nature of the employment of criminals, and that the maintenance of the "penal" character of the tasks is in many cases entirely lost sight of. This is made manifest in the following passage which I quote from the report on the administration of the Punjab, 1905 :—"As long as convicts are employed largely on repairs and the like, and most of the buildings are of the kachcha kind necessitating constant renewal, a condition that does not exist to the same extent in other Provinces, so long will it be impossible for us to increase to any great extent the number of men in paying industries." Attendance on steam or other motor power machinery for weaving or spinning or printing does not, in my committee's opinion, fulfil the true characteristics of "penal" labour, whereas the operation of hand looms or hand presses provides labour in abundance. My committee specially desire to draw attention to the information which has reached them, that free labour is employed side by side with convict labour in certain jails. This is at variance with all accepted principles of penal administration, and I am desired to emphasize, in the strongest possible terms, my committee's protest against such procedure.

6. "Jail industries must be adapted as far as possible to the requirements of the public consuming departments, and these departments must be compelled to take articles of jail manufacture as long as they can be supplied of the same quality and at the same price as in the open market. Special industries, such as carpet-making, may, however, be exceptions to this rule." The objections applying, from the point of view of private enterprise, to the principle involved in this clause have been touched upon under the preceding clauses (3) and (4), except as regards the important factor of "price." My committee are not satisfied that all legitimate charges are covered, or adequately covered, in calculating the cost of production of jail manufactures, even taking into account the various items enumerated under clause (7). I am therefore instructed to submit for consideration certain additions to these, such as purchasing and selling agencies, &c., &c., which in the case of a private concern require to be covered, and which it is understood are neglected in making up the cost of jail manufactures. It is also considered that certain fixed scales for the calculation of wages of jail labour should be decided upon which would bear a fair relation to the rates ruling in the open market. My committee have been informed that as little as six pies to one anna six pies per head per day has been charged for wages in calculating the cost of certain jail products, as against four annas to twelve annas per head per day paid in the case of free labour. In this connection I am to suggest that full details of the cost of manufacture and rates should be given in the published accounts referring to jail administration.

7. "The price of jail-made articles must follow as closely as possible the existing market rate for similar articles made by private industry, and where such rates do not exist or cannot be ascertained, the price must include"—(*a*) the price of material ; (*b*) the wages of jail labour, due allowance

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being made for the admitted inferiority of convict labour to free labour ; (*c*) a percentage for wear and tear of plant ; (*d*) a percentage on account of profits, which would ordinarily be fixed at (*i*) in the case of articles supplied to Government, 10 per cent, (*ii*) in the case of articles supplied to retail dealers, 15 per cent., (*iii*) in the case of articles supplied to private consumers, 25 per cent. on the cost of the raw material and labour, and (*e*) an excise duty of 3½ per cent. in the case of cotton piece goods manufactured by power looms. It is considered that to the above should be added (*f*) a charge for interest on capital expenditure on plant and buildings at, say, 6 per cent. per annum, (*g*) a charge to cover management, supervision, clerical establishment, &c., in respect of the manufacturing department of jails.

8. In conclusion, I am directed to suggest that, in view of the complicated and important issues surrounding the whole question of State competition with private industry, His Honour the Lieutenant-Governor may be pleased to consider the desirability of recommending to the Government of India the appointment of a Commission, representing equally the interests of Government and private industries, under a president appointed by the Department of Commerce and Industry, to investigate the whole subject.

(*iv*) The Punjab.

Letter from the Honorary Secretary, Punjab Chamber of Commerce, Delhi, to the Revenue Secretary to Government, Punjab, No. 184, dated Delhi, the 29th March 1920.

I am directed to acknowledge the receipt of your letter No. 3345-Jails dated the 2nd ultimo, regarding the subject of jail industries, and in reply to inform you that the Committee of this Chamber are against the employment of power-driven machinery in jails and that instead of utilising convicts for manufacturing articles inside the jails which will detrimentally affect similar private manufactures the Committee think that such labour may be supplied to owners of big industries on contract for definite periods. This in their opinion will have the effect of affording proper training for convicts who will be able to find easy employment after their release in the some or other factories, skilled labour being very much in demand in this country.

APPENDIX VI.

CORRESPONDENCE REGARDING THE NEW DIET SCALES IN JAILS IN THE MADRAS PRESIDENCY.

(Referred to in paragraph 289 of the Report.)

Letter No. 6013, dated Ootacamund, the 7th July 1920, from the Inspector-general of Prisons, Madras, to the Secretary, Indian Jails Committee.

With reference to your demi-official No. 521, dated the 20th May 1920, and in continuation of my demi-official dated the 18th June 1920, I have the honour to state that the new diet scale was introduced as an experimental measure towards the middle of 1908 in the Central Jails at Rajahmundry, Trichinopoly and Cannanore, and was extended to the Central Jail, Coimbatore, in 1910. After the experiment had proved successful in the first three Jails for four years and in the Coimbatore Central Jail for about two years the Government in July 1912 ordered the introduction of the new scale in all jails as a permanent measure with effect from the 1st October 1912.

2. The sickness and mortality statistics under bowel complaints show a marked improvement since the introduction of the new dietary, as will be seen from the marginally noted figures, and this in spite of the adverse climatic and economic conditions of the past two years, and the unusual prevalence of epidemic influenza and cholera. The weighment statistics of prisoners released during the seven-year period 1913-19 compared with those of the average of the five years before the introduction of the new scale are also favourable, the percentage of prisoners that lost weight being only 15.87 during the former period as against 18.06 in the latter. There has been a slight fall in the percentage of those who gained weight (from 68.77 to 67.11), but the percentage of prisoners who neither gained nor lost weight rose from 13.17 before to 17.02 under the new dietary. I have no hesitation in saying that the new diet is infinitely preferable to the old and that it has been the means of reducing sickness and mortality from bowel complaints.

Period.	Daily average population.	Average admissions.	Average death.
1908-12 ...	9,598·07	930	72
1913-19 ...	9,239·62	530	33

3. In my opinion a twenty-ounce ration is ample to maintain weight and health, and I consider that the success of this ration in Madras jails warrants its extension to other Provinces. There have been no complaints of late about the insufficiency of food.

APPENDIX VII.

MENTAL DEFECT AND MENTAL ABNORMALITY AND DISEASE AS A CAUSATIVE FACTOR IN CRIME.

[By Colonel JAMES JACKSON, C.I.E., I.M.S., and Lieutenant-Colonel Sir Walter J. BUCHANAN, K.C.I.E., I.M.S. (*retired*).]

Section I.—Introductory.

The proper treatment—punishment, discipline and instruction—to be given to prisoners or inmates of industrial schools or reformatories is the problem for consideration. As every effect has its cause, and as the effect can neither be properly controlled nor wisely directed if the cause be unknown, so in the treatment of the criminal one has to seek for and understand the cause of crime. Why crime is committed, why certain individuals, repeating their offence, become recidivisits, is a question that awaits solution by penologists and governments.

2. Every country and every prison system has the same monotonous tale to tell. The most up-to-date institution conducted on purely educational and reformatory lines, the prison with the most rigid discipline and strictest exaction of labour, both furnish a constant ratio, be it smaller or larger, of failures. Neither severity of punishment nor leniency of treatment, neither the "honour system" nor the "cellular system" afford any panacea.

3. The most hopeful advance of late has been in the special treatment of the child and young adult; but with the youthful, as with the older delinquent, there is a considerable proportion of failures. Probation, industrial school, reformatory and prison, all alike fail with a certain number of offenders: there must surely be some explanation of this fact. The answer of the authorities of the famous Elmira Reformatory, New York, is "Give us reformable material and we will reform."

Section II.—Study of the Individual Necessary.

4. In dealing with crime it is necessary to study each individual if we want to get to the root cause of why he has committed the crime. There must be some difference, either in the mind, body, or environment, between the criminal and the generality of mankind. Dr. J. Devon, Commissioner, Scottish Prisons, says "the problem with those who transgress our laws is to ascertain under what conditions they would behave best, and place them there.....There is only one principle in penology worth any consideration; it is to find out why a man does wrong and make it not worth his while. There is nothing to be gained by assuming that individual pecularities may be discharged and there is

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every thing to be lost thereby." (*'The Criminal and the Community.'*) In other words success of reformatory efforts largely, if not entirely, depends on shaping the methods of reformation to fit the causes of misconduct.

5. Again, speaking of psychoneurosis, Dr. Head, F.R.S., has recently said "The only diagnosis of the slightest value, or worthy of the dignity of our profession, is the laying bare of the forces which underlie the morbid state and the discovery of the mental experiences which have set them in action." (*'Observations on the elements of the psychoneuroses'*—a paper addressed to the Society of medical officers of the Pensions Board, Lancaster gate, London.) Similarly, with criminals it is necessary to investigate the forces, internal and external, which have led the individual to crime. One must try and understand the delinquent, for until the cause is known the treatment must be empirical : this is the foundation of modern penology.

Section III.—Theories as to the Cause of Crime.

6. In introducing the American theories and methods of dealing with offenders which we found in practice in the United States, a brief resumé of the main theories held in the past as to the causation of crime is necessary. This resumé is derived from Dr. Mercier's recent work *'Crime and the Criminal.'*

7. The primitive view was that a man was righteous or unrighteous : that the criminal was a sinner "being prompted and instigated by the devil and not having the fear of God before his eyes." The punishment was vindictive and regarded as God's justice.

8. Later, the proposition, supported by Beccaria and Bentham, was enunciated, that the criminal was one of the ordinary population who had yielded to temptation. And as ordinary motives and considerations which restrained mankind in general from crime did not restrain him, an additional stimulus to good behaviour—punishment—was necessary. The punishment was to be purely deterrent, no longer vindictive and a weapon of man's justice.

9. The next advance was that, while accepting the principle that criminals were normal people, it was recognised that there were differences among criminals demanding different treatment, and reform was held to be as essential a part of punishment as deterrence.

10. The school of Lombroso then put forward the axiom that the criminal, and especially the habitual criminal, differed widely from normal man, that he was in fact specifically distinct. Lombroso based his theory to an undue and exaggerated degree on physical stigmata, and his views are not now generally accepted ; but his work undoubtedly paved the way for more scientific and sounder methods. For Lombroso recognised that the individual had to be examined before being dealt with and that an attempt had to be made to understand his mental make-up.

11. In contradistinction, another school argued that criminals were made, not born. Bad homes, bad environment, poverty, alcoholism, etc. : these, it was held, were the essential causative factors of crime. By some this theory was elaborated into the untrue and dangerous doctrine that society was responsible for producing the criminal.

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12. A few theorists held that all crime was the result of disease, but this never received any scientific support.

13. A remarkable work, '*The English Convict*' by Dr. C. Goring, published as a blue book in 1913, next attracted attention. Based on a careful statistical survey of thousands of English convicts (*i.e.*, men convicted of more serious crime), Dr. Goring in it demonstrated that the theory that crime was almost wholly due to bad homes, poverty, illiteracy, etc., was untenable and that the doctrine of Lombroso was unsupported by valid evidence. Broadly speaking, Dr. Goring's conclusion was that convicts differed appreciably from the average free Englishmen. As a class they were mentally and physically inferior to the general population. Dr. Goring's work and his conclusions are dealt with in greater detail in paragraphs 26 *et seq.* Dr. Mercier ('*Crime and Criminals*') while recognising the great value, fairness and accuracy of Dr. Goring's work impugned the result on the ground that Goring shows that criminals convicted of serious crime are selected by their inferior intelligence from the whole body of the population. He asks "Is it not extremely likely that they are selected by the same character from the whole body of criminals?" He points out that in the year 1911, 97,000 indictable offences were reported to the police and few more than 13,000 were convicted at quarter sessions and assizes of the commission of such offences. "They" (Dr. Goring's) "are statistics relating not to the whole body of criminals but to fewer than 15 per cent. of all criminals or at least to fewer than 15 per cent. of the crimes perpetrated; and the strong presumption is that they refer to a selected class of criminal and not to a fair average sample." Even granting this, as prison officials have to deal with convicted prisoners, Goring's conclusions are at any rate useful to them. Sir Bryan Donkin, late Commissioner, English Prisons Board, does not altogether endorse the conclusions arrived at by Dr. Goring as he believes that force of circumstances plays a greater part in the making of the criminal than Dr. Goring allows.

14. According to Dr. Mercier, crime is due to two factors existing in each individual: "Temptation or opportunity, the environmental factor or stress, acting upon the predisposition of the offender, the inherent or constitutional factor. The more potent the one factor the less of the other will be needed to bring about the result" ('*Crime and Criminals*'). On this theory the habitual has a strong predisposition to crime, the inherent factor is predominant and the breaking-strain low; with the occasional offender the external factor, temptation, preponderates greatly over the internal factor, the predisposition to crime; his breaking strain is higher and may be very high. Dr. Mercier's proposition, so ably advocated in his book, may be an incontrovertible statement but in reality it leads us no nearer the solution of the problem. One man is more predisposed to crime than another, so says Dr. Mercier, and we all agree. But when we ask why he is so predisposed, why has his mentality a criminal taint, why is the breaking strain low, Mercier gives no answer.

Section IV.—Theory of Crime Causation in the United States; Study of the Individual; Importance of Mental Conditions.

15. The penologists of the United States decline to recognise any general theory of crime. As Dr. Healy writes: "In view of the immense complexity of human nature in relation to complex environmental conditions it is little to us if no set theory of crime can ever be successfully maintained." ('*The Individual Delinquent.*') There are many causes and the most important thing is not the crime but the individual. Nothing can do away with the necessity of a careful personal study of each offender. Just as in ordinary life every man differs from his neighbour, reacts in a different way to the same emotion, and acts in a different way under the same stimulus, so with the criminal each individual's reaction to temptation or environment and the resulting action or effect differ widely.

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16. Similarly, as pointed out by Dr. Mercier, "Every criminal has his own individuality—his own idiosyncracy—which stamps itself on every thing he does..... Apart from sensational murders, which are altogether exceptional and form but an infinitesimal proportion of the total number of crimes committed, the detection of the criminal practically means the detection of habitual thieves, and habitual thieves are detected by the character of their handiwork." (*'Crime and Criminals'*). Based on this principle, Mr. A. Vollmer, Commissioner of Police, Berkeley, California, explained to us a system for detecting the criminal which was working with very remarkable success. In detection as in treatment knowledge of the individual is necessary.

17. American penologists recognise the accidental criminal who commits a crime through temptation or perhaps through bad example. He is unlikely in most cases to fall again and is therefore eminently reformable. They believe that confirmed criminals, as a broad rule, begin their careers in childhood or in early youth, and they therefore affirm the enormous importance of preventing the further criminal development of the youthful delinquent. Realising fully the evil effects of bad environment, bad homes and parental neglect of children they appreciate the paramount necessity of special treatment for children and young adults.

18. They lay stress, however, on the point that no child or young adult should be sent to an institution, however good it may be, if that course can possibly, in the culprit's own interest, be avoided. Every effort is made to deal suitably with neglected or delinquent children and young adults in their own homes, and every possible endeavour is made to improve the home conditions and environment of those released on probation or parole.

19. They, however, urgently insist that there is one factor—the greatest single causative factor of crime—hitherto not properly recognised. It is not only productive of crime, but the reformation of those in whom it is found is very difficult, often impossible. It is the great source of failures in schools and largely explains the residuum of irreformables, the recidivists. This factor is mental defect, psychosis, psychoneurosis and the psychic constitutional inferiority. In the United States the criminal is now studied by exact scientific methods, which undoubtedly enable the observer to recognise degrees of mental defect in the delinquent and to judge of his whole mental make-up with an accuracy absolutely unattainable by the cruder methods of examination heretofore in use.

20. The American penologists are careful to point out that the criminal is not necessarily either feebleminded or suffering from mental abnormality. They do assert that such people are more likely to commit crime and are very difficult to reform : and certainly so, unless suitably treated. The person with the mind of child and the physical powers and instincts of an adult is obviously in a critical position. The feebleminded child or young adult, naturally lacking in self-control and judgment, yields to temptation, is prone to follow bad example and cannot face social difficulties when they arise. It is not a far-fetched conclusion to suppose that such people are likely to become criminals and to furnish a large proportion of failures in schools, reformatories and jails. The normal person responds to the treatment in a well-conducted institution, the subnormal and defective will fail, as they fail in ordinary free schools.

Section V.—Feeblemindedness and Mental Disease as a Factor of Crime in England.

21. Before entering into a more detailed account of the methods advocated and the results established by American penologists and investigators it is perhaps desirable to consider to what

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degree, if at all, these conditions, as casual of crime, have been recognised in other countries. The two most distinguished English authorities on this subject during recent years—Dr. Mercier and Dr. Goring—were apparently not aware of the work done in the United States and did not apply the exacter methods of investigation in current use in that country. We found, however, in England clear evidence that the feebleminded person who had taken to crime was regarded as a very difficult problem.

22. The existence of this class was definitely recognised in the Mental Deficiency Act of 1913, one of the most important advances in legislature enacted in England of recent years. The Act recognises mentally defectives as including idiots, imbeciles, feebleminded persons and moral imbeciles. A moral imbecile is defined as "a person who from an early age displays some permanent mental defect coupled with strong vicious or criminal propensities on which punishment has had little or no deterrent effect." The Act provides for the placing of such persons (idiots, imbeciles, feebleminded and moral imbeciles) under guardianship or in an institution for defectives. The order remains in force first for a year and thereafter for successive periods of five years, release being contingent on the condition of the inmate and the care and supervision available if he be released.

23. In giving evidence before the Royal Commission on the Care and Control of the Feebleminded, 1905, Dr. Wilson, the medical officer of Pentonville Prison, stated that 20 per cent. of prisoners showed mental inefficiency. Dr. Treadwell, the medical officer of Parkhurst Prison, said that 17 per cent. of the "star class" and 25 per cent. of the ordinary convicts were feebleminded in a greater or less degree; and that of these feebleminded convicts only 26 per cent. would be suitable for work in a colony with non-criminal defectives. Sir H. Smalley, Commissioner, English Prisons Board, on reports from medical officers, reckoned 3 per cent. of prisoners to be feebleminded. Medical men, unconnected with prison administration, were appointed by the Royal Commission to investigate the number of feebleminded in the general population, urban and rural. They examined typical prisons and their conclusion was that the percentage of feebleminded prisoners was 10.38 per cent. Sir H. Smalley points out that "the reason for this divergence of opinion is not hard to find. It is to a great extent due to the view taken by different observers as to what should constitute feeblemindedness. Some would view the condition as a matter concerning intelligence only; others—and we venture to think more correctly—as 'mental defect' evidenced by careful observation of conduct and the inability of the subjects to adjust themselves to their social surroundings, irrespective of any absolute standard of intelligence such, for instance, as that gauged by the Binet-Simon test".

24. In 1914-1915 the percentage reported in English prisons was only 0.288. The discrepancy from the estimated proportion given above is explained as follows by Sir H. Smalley :—

(*i*) The Mental Deficiency Act stipulated that the defect must exist from early age : this excluded seniles, alcoholics, and a few other cases, amounting to 30 per cent. of the defectives to be found in a prison.

(*ii*) The term "early age" is very vague, and in any case proof that the defect had existed from early age was difficult to get or could not be discovered and this hampered medical officers. "There can be no question" says Sir H. Smalley "that many prisoners of a class for whom this Act was intended did not get certified owing to this." (*'Report of the English Prison Commissioners, 1914-1915'*).

(*iii*) Owing to the failure of action being taken with regard to cases certified in the earlier part of the year there was reluctance to undertake the onerous labour of obtaining a history of the case when it was felt it would lead to no result and only be a waste of time.

25. It may be added that, in a similar way, mental deterioration, the result of dementia praecox or of the epilepsies would probably escape notification, and short-term prisoners were probably not

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carefully, if at all, examined. The '*Report of the English Prison Commissioners, 1918-1919*', gives the percentage in local prisons of prisoners who showed mental defect or mental instability or derangement as 4.4. This figure must be considered with the report of the medical officer, Leeds Prison, quoted further on. The Male Borstal institution gave the very remarkable figures of 22.5 per cent. markedly feebleminded or definitely affected mentally.

26. At this point it is proposed to consider in greater detail the conclusions—already alluded to—arrived at by Dr. C. Goring in his work '*The English Convict.*' In a preface to it Sir Evelyn Ruggles-Brise says : "Putting aside the part played by different circumstances and without subscribing to the different views and doctrines which, in the opinion of the author, result from the enquiry, the broad and general truth which appears from the mass of figures and calculations is that the 'criminal' man is, to a large extent, a defective man, either physically or mentally, or in the words of Sir B. Donkin is 'unable to acquire the complex characters which are essential to the average man and so is prone to follow the line of least resistance.'" The English Prison Commissioners ('*Report, 1913-1914*') express themselves guardedly as to the conclusions drawn by Dr. Goring ; but they emphasise the need of the aid of the public for those "who in the absence of uplifting and restraining and inspiring influences would in obedience to some constitutional defect of mind or body follow the line of least resistance." They say the principal lesson to be learnt from Dr. Goring's work is that "crime can be combated most effectively by segregation and supervision of the obviously unfit, and by removing them to a more restricted sphere where the stress and competitive conditions of modern life are more flexible and less severe." This last sentence practically states what American penologists affirm.

27. Beyond the argument that the convicts, from the examination of whom Dr. Goring drew his conclusions, were selected from the general body of criminals by mental or physical defect no attempt to challenge the data, conclusions or deductions of Dr. Goring appears to have been made. The one objection advanced was an easy one to raise, as Dr. Goring himself pointed out, that the physical and mental defect of the prisoner might have affected his ability to evade the police and so statistics might be vitiated, though the stronger and abler man might equally suffer from a "criminal diathesis" ; and though convinced that his data do represent fundamental interrelationships of criminality, Dr. Goring recognised the desirability of further investigation on statistical lines.

28. Dr. Goring's conclusions are briefly as follows :—(*i*) there is no anthropological criminal type ; but the criminal is differentiated from the free average population by (*a*) defective physique, (*b*) defective mental capacity ; (*ii*) relatively to its origin in the constitution of the malefactor, and especially in his mentally defective constitution, only to a trifling extent (if to any) is crime the product of social inequalities, of adverse environment, or of other manifestations of what may be comprehensively termed the force of circumstances ; (*iii*) imprisonment, on the whole, has no apparent effect on physique, as measured by body-weight, or upon mentality as measured by intelligence ; (*iv*) the criminal stock is not physiologically sterile ; and (*v*) the "criminal diathesis," revealed by the tendency to be convicted and imprisoned for crime, is influenced by the force of heredity, in much the same way and to much the same extent as are physical and mental qualities and conditions in man. Summing up he says : "Our correlations tell us that, despite of education, heritable constitutional conditions prevail in the making of the criminal ; but they contain no pronouncement upon the extent to which the general standard of morality may have been raised by education. We know that to make a law-abiding citizen two things are needed, capacity and training .....The crusade against crime may be conducted in three directions. The effort may be made to modify inherited tendency by appropriate educational measures : or else to modify the opportunity for crime by segregation and supervision of the unfit : or else—and this is attacking the evil at its very root—to regulate the production of those degrees of constitutional qualities (feeblemindedness, inebriety, epilepsy, deficient social instinct, etc.,) which conduce to the committing of crime." To add force to the opinion of Dr. Goring as to a "criminal diathesis," it may be pointed out that inheritance of mental defect, epilepsy and insanity is an accepted fact. Dr. Mercier, whose opinion on this matter must carry great weight, said there were only two causal factors in insanity, heredity and stress. The "criminal diathesis" is the feeble or unstable mind, a mental state predisposing to crime.

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29. Dealing with defective mental capacity in particular Dr. Goring points out, as do American observers, that there is no clear line of demarcation between feeblemindedness, intelligence and high intelligence. They grade into one another and hence the "border-zone" or "subnormal" of American scientists.

30. The percentage of feebleminded in the adult general population of England is estimated by Dr. Goring at 0.45. It is higher among children. Pearson found 1.50 per cent. of mentally defective children in London schools. In America they reckon that from 0.50 to 1 per cent. of the general population is feebleminded, and 2 per cent. among school children. Dr. Goring, as far as can be made out from his book, used no exact tests for mental capacity and therefore his figures would naturally be lower than those given for America. The significant fact is pointed out that the 0.45 per cent. of defectives in the general population rises to "certainly not less than 10 per cent., and probably not more than 20 per cent., among criminals." Furthermore, Dr. Goring states that *qua* crime alcoholism, epilepsy, and probably sexual profligacy and insanity also, are accidental associations depending upon a primary high degree of relationship between defective intelligence and crime. The relation of mental defect to graver degrees of alcoholism has been investigated and pretty well established.

31. As showing how the new idea is spreading in the United Kingdom we find in the *'Report of the English Prison Commissioners, 1918-1919'* a quotation from a report of the General Purposes Committee presented to a meeting of the Justices of Birmingham, January 2nd 1919 :—"The minds of many of the Birmingham Justices have for a long time been exercised as to the futility and inadequacy of the customary methods of dealing with persons charged with crime, particularly as to the absence of any consideration of the mental condition of such persons. It has been felt that in many cases some mental instability is the fundamental cause of the commission of crime and that treatment as distinct from punishment (either by fine or imprisonment) is the proper and sane method to adopt .....A well-ordered State should clearly make provision for the efficient treatment, and if possible, cure of those who by their acts or mental weakness are a menace to the community and thus jeopardise their right to freedom.....What is needed is the provision of facilities for the skilled treatment of mental disturbance (exhibited either by the commission of crime or other abnormal excess) in its early and curable stage," in other words what in America is called a court clinic. As in probation so in this even more important matter Birmingham shows the way to England. Acting on the above the Commissioners of Prisons in England have made arrangements for a section of the hospital at Birmingham to be set apart for the reception and segregation of such cases detected before conviction, and a special medical officer has been sent to the prison to work in conjunction with the Psychologist to the Birmingham Justices and to furnish all possible assistance to the magistrates of Brimingham in their policy, which is "to prevent the application of ordinary prison methods to persons medically unfit, and who can only be deemed to be irresponsible for their actions." Dr. W. A. Potts, medical officer to the Birmingham Committee for the Care of the Mentally Defective, and Psychological Expert to the Birmingham Justices, read a most interesting paper at a conference on the administration of the Mental Deficiency Act, 1913, in November 1919 on "*The Mentally Defective and Unstable brought before courts, the Birmingham scheme.*" He points out that evidence before the Royal Commission on the care and control of the feebleminded showed that a considerable number of prisoners, varying from 10 per cent. to 30 per cent., are mentally defective and should be dealt with as such, and not as criminals, and that careful examination will show that another large proportion is due to physical illness and incapacity. Another section is due to wrong occupation, want of training for any occupation, bad homes and alcoholism. Venereal disease, he recognises, as do American investigators, as an important cause of crime, and emphasises the importance of its diagnosis and treatment. In support of this fact it is stated that the National Council for combating Venereal Disease find mental defectives one of the great difficulties : such persons often spread the disease broadcast. The high percentage of mental defectives and mental abnormals among prostitutes is, of course, a received fact.

32. Dr. Potts shows the importance of the recognition of metal defect and instability in relation to probation. He alludes to the girl or young woman who, though she answers ordinary questions in an ordinary way and smiles pleasantly, may be feebleminded. So exactly, Judge Cabot,

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Juvenile Court, Boston, says that "a defective delinquent young girl may be pretty, charming and superficially normal but quite unfit for probation." Dr. Potts points out, and the proposition can hardly be denied, that it is not possible to find the real cause of a crime by any investigation in court, and that long and careful examination and many interviews may be necessary. "The springs of conduct are in the subconscious mind, and there often unsuspected by the individual himself : their discovery requires experience in mental analysis.....Recently the chairman of one bench said—'a girl of 16 was well on the downward path and the best place for her was prison'. This was said after the probation officer had stated that 'the girl had been in three homes and had made a farce of probation arrangements.'" "One cannot help thinking it might have been more correct to say that the court had made a farce of examining the girl, the probation arrangements having been made without any scientific investigation of the girl and her circumstances." (*'The Mentally defective and Unstable brought before courts.'*) Of the cases so far dealt with in Birmingham 18 per cent. have been found to be mentally defective and 12 per cent. of unsound mind. The scheme in Birmingham is in its early stages but it does not take much prescience to foretell the introduction of similar methods throughout city and town courts in England.

33. Confirmatory of the importance of mental conditions, we found that in England industrial and reformatory schools were very chary about admitting mental defectives. We were told that the disposal of the mentally dull and backward and feebleminded children was unsatisfactory : that there was not sufficient institutional accommodation in England for the disposal of the mentally defective children ; with the result that such children remain in industrial schools and reformatories when they ought to be in proper institutions for the training of the mentally defective. A plan was mentioned to us which provided a clearing-house where careful mental and physical examination was made of all admissions. From this institution the children would pass to properly classified schools suited to their needs. These schools were to include special ones for mental defectives.

34. Mr. Cecil Leeson, Secretary to the Howard Association, who has had long experience of probation, states that it is useless to place the mentally defective boy and girl on probation. "Under our present system it is quite possible for epileptic and mentally defective offenders to be released on probation : indeed cases of this kind are within the writer's personal knowledge.....To place defective offenders on probation without at least making some attempt to treat their defects is clearly unfair to the community, the probation officer and the probation system.....The fact is, we make no provision for criminally defective children. They have no place in our social scheme. We require appropriate institutions to which they may be committed indeterminately, when that is needful, where they may be happy but where they may not be permitted to menace society.....The probation system will act as a sieve : those individuals whose offences were chiefly attributable to defective social environment will have to be eliminated ; those remaining recidivists, whose offences are due to inherent individual weakness and defects, will form the real criminal problem.....Experience seems to show that an indispensable preliminary will be an exhaustive physical and mental examination, this because so great a proportion of the offenders who fail to respond to probation are physically or mentally defective." (*'The Probation System'* by Mr. Cecil Leeson.)

35. We were told at the Borstal institution for females at Aylesbury that any system of grades or freedom in prison was impossible for the mentally defective. They could not stand the responsibility. No feebleminded juvenile adult is supposed to be received at the Borstal institution, Chatham, because such an individual is difficult to reform—if reformable at all—nor can he be expected to answer to the treatment devised for a normal person. It is recognised that a mentally defective juvenile-adult cannot be put on probation with any reasonable hope of success. One parole board told us that feebleminded and feeblebodied men should not be let out on parole.

36. At Parkhurst—a special prison for the mentally and physically deficient—we were told that two-thirds of the inmates were mentally and physically unfit for ordinary discipline and work. Out of a population of 679, 82 were mental defectives ; and, as no exact method of assessing mental defect was used, the sieve of selection had a lrage mesh. Out of these 82, there were 35 "moral imbeciles" who were to be sent to an institution for such cases as soon as it was built (Mental

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Deficiency Act, 1913). In addition, there were many prisoners who were subject to uncontrolled fits of passion and therefore not suitable for ordinary prison discipline.

37. Speaking of juvenile adults a very experienced chaplain said: "The most difficult cases are those who have no real cause to commit crime. In their cases it was a little kink in their minds which drove them into criminal practices." And of certain adults he remarked: "We talk of these men being idle but I think that is due to their mentality. It is that idleness which gets many of them into jail." We have thus shown that this problem, the mentally defective and mentally abnormal criminal, is recognised in England, but its prime importance in relation to crime is not yet fully realised. Nor is it quite appreciated how very largely the mentally defective and mentally unstable inmate contributes to the failures in schools, reformatories and prisons and to how a great a degree they furnish recruits to the recidivist army: because in England they have not begun to use, on any large scale, the exacter method of mental examination we found in the United States, and therefore in England the higher grade mental defective frequently escapes detection. In support of this view we may quote the medical officer of Leeds Prison who reports (*'English Prison Commissioners Report, 1918-19'*): "The statistics of feebleminded prisoners called for this year must, I think, be more or less incomplete, as these cases are not diagnosable at sight and to get really reliable numbers one would need to make a systematic examination of prisoners by the Binet-Simon and other tests.....a difficult matter, as each case takes a considerable time to complete. I imagine, therefore, there are a good many more mental defectives than appear on first sight." It is just this systematic examination of criminals that is carried out in America and which has revealed the importance of mental defect and abnormality in crime. Assuredly a higher-grade mental defective cannot be diagnosed at sight, nor can the obscurer psychoses and psychoneuroses.

38. Owing to the great opportunities for the study of mental defect and disease afforded during the late war we can turn to other sources of information as regards the existence of these conditions in a conscript army and their effect on the individual. We find it recognised that the mental defective and psychopath are ill-fitted for military purposes; they find it difficult to adapt themselves to their environment and often adaptation is never made. The feebleminded and the psychopath are the butt of the other soldiers; they are repeatedly in conflict with discipline and military law; they are notoriously intolerant of alcohol and under its influence commit military offences; they are unstable and irritable and are especially characterised by unreasonable outbreaks of temper and assaults on their superiors; they frequently commit suicide and manifest temporary mental upsets. "It is thus patent that careful means must be taken to eliminate the mentally defective from the ranks and as the importance of this is gradually becoming more and more recognized, measures to this end have been adopted. If the mental defective does not somehow find his way into the wards of a mental hospital, he can be frequently found among the delinquents for various infractions of discipline. So many of them are continually punished and it is only when it is found that punishment acts in no way as a deterrent that their officer suspects some developmental lack and passes on the man for expert's advice, when the lack of responsibility is quickly detected." (*'Military Psychiatry in Peace and War'*—Dr. C. Stanford Read.)

39. No new psychoses or psychoneurses have been produced by the war; they existed in civil life, and the mentally defective and mentally diseased are a source of weakness and trouble in the army as in civil life. Dr. Stanford Read says in his final chapter: "It is certain that as psychiatric medicine is having its importance more recognised in civilian life the military authorities will have to develop this branch in the Royal Army Medical Corps, and by its scientific application do much to improve the mental status of the soldier. The sooner some officers become thoroughly trained in this specialty the better.....This would not only mean increased efficiency through elimination of the unfit, but increased efficiency by seeing that the soldier is psychologically suited for his particular work. Thorough psychiatric knowledge, too, would bring an added justice in its train, as the delinquent is then seen in the right perspective. All frequent offenders, and certainly a large proportion of court-martial cases, should be mentally examined in order to get to

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the basic root of their anti-social acts, and so treat the offender and not the offence." (*'Military Phychiatry in Peace and War'*), and so Dr. Stanford Read concludes on an absolutely sound note of penology.

40. Sir J. Crichton Browne, in delivering the first Maudsley lecture before the Royal Society of Medicine last May, gave the same earnest warning to England that American scientists have conveyed to their countrymen. He said: "In order to secure a material reduction in the load of lunacy we must apply ourselves to the curtailment or removal of the conditions out of which lunacy grows. The report upon the physical examination of men of military age by the National Service Medical Boards had revealed what the Committee had described as 'ugly facts'. Of the 2,425,184 men examined, only 36 per cent. were placed in Grade 1. The causes of unfitness enumerated in the report included insanity and mental defect, but afforded no indication of the prevalence of these in the adult population. Many men of unsound mind had passed into the Army, for the examination was essentially physical, and practically no mental tests were applied. Had an examination into the mental conditions of the men coming before the National Service Medical Boards been made, which was at all comparable with that instituted into their physical condition, it would, he was confident, have shown an amount of mental unfitness in our adult male population—that was to say, in the sanest section of the community—that would that been startling and would have shown that a grave emergency existed."

Section VI.—Position as regards Mental Defect and Disease in Criminals in India.

41. A considerable time ago the factor of insanity, mental defect, and mental instability was recognised by the Government of India, who forbade the deportation to the Andamans of any person suffering from "Insanity, or when the records of the prisoner's history, so far as it is known, indicates weakness of intellect, or a predisposition to insanity, or abnormality of temperament amounting to such a condition, even though the legal plea of insanity may not have been established." (Bombay Jail Manual 1046 (2) and Government of India letter No. 796, Home Department, Port Blair, dated 29th October 1910.) We find in the Bombay Jail Administration Report for 1917 the following remark "a special jail is required in which all old broken-down and feeble-bodied prisoners, all prisoners of a low type of brain development, and prisoners with mental twists and kinks can be collected and given special discipline and treatment". Though up to date the subject has received no attention in particular in Indian prisons we found that the type was recognised and the percentage calculated at anything from 1 per cent. to 25 per cent. This, a diagnosis by memory, is of course even more faulty than a diagnosis on sight. But having regard to the degree in which mental defect has been found on careful examination to exist among the free population in other countries, and above all seeing the steadily increasing recognition of the fact that mental defect and mental disease play a prominent part in the production of crime, it would be more than rash to predicate that similar conditions do not hold good for India.

Section VII.—The Feebleminded and Mentally Abnormal Delinquents in the United States.

42. The position and the doctrines of American penologists can be best put in their own words. In his great work '*The Individual Delinquent*,' Dr. William Healy writes: "The gist

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of the situation is that mental defect forms the largest single cause of delinquency to be found by correlating tendency to offend with the characteristics of the offender." With regard to abnormality or instability of mind he points out that the condition existing may be difficult to class under any specific category of mental disease. The diagnosis and treatment of mental disease has a long way to go and many eminent psychiatrists have protested against the insistence on rigid classification. "The inability to apply the name of any disease or any grade of defect should not, however, befog the practical issue....In regard to mental abnormality the law has its own artificial standard, one that is based neither upon the best that is known in the field of abnormal psychology nor—which is much more to the point—on studies of the inter-active causative factors of delinquency, as found in the career of the individual offender. The main point, for us at least, is whether or not the individual is influenced towards delinquency by any abnormal mental condition and what is the likelihood of the future. Society has the great need of protecting the individual and itself in the light of that prognosis. The idea that the individual should not be held under the law because his act was determinably the result of mental abnormality is unsound from the above standpoint. When it comes to actual prognosis it should be remembered that the recurrence of misdeeds is perhaps even more frequent among offenders who cannot be said to be suffering from any named disease, although the fact of their abnormality may be patent. Concerning diagnosis of the general fact, steady advance in ability to determine scientifically mental abnormality is being made by the use of the newer methods of psychological examination and it is hoped the discovery of many corresponding organic conditions will take place." (*'The Individual Delinquent.'*) This hope of Dr. Healy's is already being fulfilled. In his work on *'The Measurement of Intelligence'*, Dr. Lewis M. Terman, Professor of Education, Leland Stanford University, California, says "while there are minor discrepancies in regard to the actual percentage, there is no investigator who denies the fearful rôle played by mental defect in the production of vice, crime and delinquency." The vital importance of recognizing mental defect and abnormality among prisoners is shown clearly when we read the considered opinion of Dr. Frank L. Christian, Superintendent, New York State Reformatory, Elmira, (*'Medical Times'*, April 1915): "Practically all of the persistent violators of the rules in a well-conducted institution will be found to be feebleminded, mentally or physically abnormal, and I have yet to know of an incorrigible prisoner who could not be so classified. All mental defectives are by no means incorrigible but all incorrigibles are mentally or physically defective." Dr. Christian points out that the present treatment of the confirmed recidivist is futile and that such a criminal frequently requires permanent custodial care, "for there is but little difference between the chronic recidivist and the chronic lunatic; both should be well treated but kept in permanent confinement. The optimistic contention is that every convict should always be given another opportunity to demonstrate his worth, yet this attitude is but self-deception, and we should come to a conclusion in the case of the recidivist with the same celerity, sureness and finality that we do in the case of a lunatic." These brief extracts demonstrate the importance attributed by American penologists to mental defect and mental disease as a causative factor in crime and we now turn to an examination of the methods used for the detection of feeblemindedness (mental defect or lack of mind.)

Section VIII.—Methods used in the United States for the Examination of Delinquents for Mental Defect.

43. The object of any examination of the delinquent is to ascertain the root-cause of the crime. Why did the offender offend? To pursue such inquiry intelligently with success it is clear a definite plan of inquiry must be pursued. Dr. Healy (*'Individual Delinquent'*) formulates the following heads as essential to such an investigation:—

(*i*) "What is the subject's mental ability, independent, as far as is ascertainable, of the results of formal education? This should be estimated in terms of strength or weakness

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of (*a*) the subject's general ability or general intelligence (if such a thing as general intelligence there be*), (*b*) the subject's special abilities—selecting for investigation here those abilities or functions which, since we are dealing with social conduct, seem most likely to be related to social action, success or failure.

(*ii*) "What has been the result of formal education interpreted in the light of its conditions and extent?

(*iii*) "Does the individual suffer from aberrational mental functionings, whether borderline or fully developed psychoses?

(*iv*) "What are the individual's preponderating mental interests, as stated in terms of mental content, irritation and the like?

(*v*) "Has the individual important peculiar characteristics particularly of emotional or moral life, leading to impulsive or other abnormal action?

(*vi*) "Has the individual suffered earlier experiences, mental or environmental, which have, through the arousal of inner conflicts, complexes, inhibitions or resistances, interfered with the satisfactory, smooth and healthy working of mental life?"

Questions (*iii*) to (*vi*) require the examination of a psychiatrist and questions (*i*) and (*ii*) demand investigation by mental tests. These mental tests will determine the general intelligence of the individual, whether he is normal, below normal or above normal, and to what degree, and so discover the mental defective. The system most generally used is the Binet-Simon test.

Section IX.—The Binet-Simon Tests.

44. In 1904 MM. A. Binet and Th. Simon commenced testing the intelligence of public school children. They framed a series of questions and problems running through a wide range from great simplicity to decided difficulty. These tests were tried on children of various ages, and the percentage of successes and failures were carefully noted for each age, until gradually they were able to determine on certain tests as suitable for certain ages. That is to say, an average child of 6 would as a rule answer all the tests allocated to that year. The investigators proceeded with infinite patience and infinite ingenuity until finally a normal standard was practically reached. Adopting the idea that the feebleminded person is one whose mental development has been arrested, the degree of defect or arrest could be estimated by comparing the intelligence of the subject with the "intelligence norm" of normal children. Binet and Simon first struck this idea of "norms" or age-standards. Having tested a child they were able to size up his mental ability far more quickly and far more accurately than the children's own teacher. They could say with practical precision: "this child is normal," "this child is retarded one year or two years", "this child is one or two years in advance of the normal standard". The advantages of the method are obvious if one considers how definitely by it the intelligence can be defined. Instead of saying an individual is dull or backward or feebleminded, it is put concisely and clearly by stating that a person, of say 14 years of age, has the mentality of a child of eight. Binet died before he had completed his work, for he was not satisfied that his tests were sufficiently accurate.

*That "general intelligence" is a certain common factor in the mental make-up of all of us has been proved by Professor Spearman.

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45. Originally devised for educational work these tests were keenly taken up in America, and have been revised and improved by various observers. Some tests have been put higher in the scale, others lower and new and valuable tests have been added.

46. Dr. Terman (*'The Measurement of Intelligence'*) points out that studies of school children afford convincing evidence of the magnitude and seriousness of the problem of mental defect and retardation. Knowing to what a pitch education has been developed in America a few facts gathered from his book are germane to our subject. Statistics show that in the United States one-third to one-half of city school children fail to progress through the grades at the expected rate; 10 per cent. to 15 per cent. are retarded two years or more; 5 per cent. to 8 per cent. are retarded at least three years. Forty million dollars are expended every year re-teaching children what they have already been taught and have failed to learn. On realising this state of affairs, efforts were made to remedy it by individualisation of teaching, improved methods of promotion, increased attention to the children's health and other reforms in school administration. The results were still unsatisfactory because, as Dr. Terman says, these measures "were too often based upon the assumption that under right conditions all children would be equally, or almost equally, capable of making satisfactory school progress." The essential point that children differ widely in mental capacity was ignored.

47. Intelligence tests show the varying grades of mental capacity clearly and reveal that not far from 2 per cent. of the children in schools will never develop beyond the level of intelligence possessed by a child of 11 or 12 years. The problem runs through the whole economic scale: failures in school, failures in industry, failures in social life and ultimately failures in industrial schools, reformatories and prisons.

48. These tests were soon applied to delinquents and prisoners and it was found that the proportion of mental defectives among this class had been hitherto considerably under-estimated. The importance of this discovery is manifest and put very clearly by Dr. Terman. "But why do the feebleminded tend so strongly to become delinquent? The answer may be stated in simple terms. Morality depends upon two things: (*a*) the ability to foresee and to weigh the possible consequences, for self and others, of different kinds of behaviour; and (*b*) upon the willingness and capacity to exercise self-restraint. That there are many intelligent criminals is due to the fact that (*a*) may exist without (*b*); on the other hand (*b*) presupposes (*a*). In other words, not all criminals are feebleminded, but all feebleminded are at least potential criminals. That every feebleminded woman is a potential prostitute would hardly be disputed by anyone. Moral judgment, like business judgment, social judgment or any other kind of higher thought process, is a function of intelligence. Morality cannot flower or fruit if intelligence remains infantile" (*'The Measurement of Intelligence'*).

49. It was quite natural that objections should have been raised and the value of these tests questioned. Men plume themselves on their faculty of judging other men, and of estimating their capacity and worth; and being a faculty exercised from early childhood it is possessed by most of us to a greater or lesser degree. Therefore, as Dr. Terman says—"The possession of this little fund of practical working knowledge makes most people slow to admit any one's claim ao greater expertness." In confimation of this we find Dr. Shepherd Ivory Franz writing: "It is however a habit fostered by laziness to say that common-sense alone is necessary to determine the mental condition of another.....Science is more than comon sense, it is common seose systematised." (*'Mental Examination Methods'* by Dr. Shephard Ivory Franz, Psychologist to the St. Elizabeth's Hospital for the Insane and Professor of Physiology and Psychology, George Washington University).

50. We find an allusion to these doubts in an article dealing with the cognate question as to whether psychologists can test vocational possibilities of young people: "one initial trouble will be the scepticism of practical business men about the competency of the psychologist to pick out

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suitable persons. Universities and especially psychological laboratories do not command very general respect among business people. Knowing that he himself, a practical man of the world, has great difficulty in making his selection, the employer is apt to regard with suspicion the pretensions of a man who spends his time in a laboratory remote from the meeting places of men." (*'Square Pegs for Square Holes,' 'The Times Educational Supplement'* 20th May 1920.) The English business man extended the same suspicion to workers in other laboratories, chemistry for instance, to the infinite detriment of his own pocket and the wealth of his country. "It may reassure such doubters to a certain extent to consider what happened during the organization of the American army when the States entered the Great War. With their usual enterprise the United States mobilized not only their fighting men but their psychologists". (*'Square Pegs for Square Holes'.*) Every objection raised has been already considered by experts; and has been refuted, remedied, or its danger recognised, watched for and guarded against as far as possible ; every year these tests are being developed and improved.

51. The objections which have been advanced against the Binet-Simon tests, and certain limitations in their use which have been recognised, must now be considered. The first limitation is that this test scale only measures the general intelligence and does not analyse the emotion or volition of the subject. It does not test special abilities or talents like drawing, mathematics or music. But in the words of Terman "it is capable of bounding roughly the vocational territory in which an individual intelligence will probably permit success, nothing else preventing." (*'The Measurement of Intelligence.'*) Valuable as it is in education it cannot be taken as a complete guide in educational methods. Nor must other data and relevant circumstances be left out of consideration in estimating the chances of success or failure on the part of the individual such as "the subject's personal history, including medical record, accidents, play habits, industrial efficiency, social and moral traits, school success, home environment, etc. Without question, however, the improved Binet tests will contribute more than all other data combined to the end of enabling us to forecast a child's possibilities of future improvement, and this is the information which will aid most in the proper direction of his education". (*'The Measurement of Intelligence'.*)

52. Imperfections in the original test scale were: incorrect location of tests, too few tests in certain cases, directions for giving and scoring tests too indefinite; and the upper and lower ranges of the scale in particular stood in need of extensions and corrections. In spite of this, there was a general agreement of opinion as to the great value of the method among psychologists. "It is without doubt the most satisfactory and accurate method of determining a child's intelligence that we have, and is so far superior to everything else which has been proposed that as yet there is nothing else to be considered." (*'The Binet Measuring Scale of Intelligence, What it is and How it is to be used'*—Dr. H. W. Goddard.) "That, despite the differences in race and language, despite the differences in school organization and in methods of instruction, there should be so decided agreement in the reactions of children is, in my opinion, the best vindication of the principle of the tests that one could imagine, because this agreement demonstrates that the tests actually do reach and discover the general developmental condition of intelligence (so far as these are operative in public school children of the present epoch) and not mere fragments of knowledge and attainments acquired by chance." (Dr. W. Stern *'The Psychological Methods of Testing Intelligence,'* translated by Whipple).

53. The objection is advanced by some that it is a "time-test". Most examinations are, in part, time-tests and with adults some time-limit is necessary. However, we find that Dr. Terman emphasises the fact that the child may be very slow and that sometimes the sitting must be adjourned. He points out that, rather than hurry, and so perhaps block the child's mental process, it is best to stop and complete the examination at another time. Dr. Healy says "With some tests wide time limits must be allowed, in all common-sense, before discriminating for or against the performer". And distinguishing between two cases he writes "No, it is clear that very much more has to be registered than the time, or any other numerically recordable element, in order to form a fair judgment of the ability of two." (*' The Individual Delinquent.'*) And Dr. Franz says " that too-much importance must not be attached to any one test."

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54. Can the subject be coached? This point has been considered: with young subjects the danger hardly exists, with older children, and in prisons and reformatories the fact must be borne in mind, but alternative tests can be given, if evidence of coaching is present, and additional scales can be prepared to be used interchangeably. Will repeated test of the same subject give the same result? As a general rule they do. What effect have social and educational advantages? Children of a higher social status give a higher average mental age than children of the labouring class. But that this is on account of the superior home surroundings is, says Terman, "an entirely gratuitous assumption. Practically all of the investigations that have been made of the influence of nature and nature on mental performance agree in attributing far more to original endowment than to environment." The result of five separate and distinct inquiries made on the Stanford Revision of the Binet-Simon lists supported the conclusion that the children of the better class test higher than children of the poorer and of bad homes for "the simple reason that their heredity is better." Lieutenant A. W. Stearns (*'The Classification of Naval Recruits'*) finds that, while there is a tendency for college men to make high scores and for those with less than 8th grade education to make low scores, "it is impossible to predict a man's score by his education because certain of those with little education make high scores and *vice versa.*"

55. One distinct drawback to the Binet test is that mere language ability enables a person to test out unduly high. This is corrected in the revised tests and performance scales, especially so in Dr. Healy's test scale. Tests have also been elaborated under which the general intelligence of illiterate individuals can be satisfactorily determined. The individual treatment of the prisoner will certainly be the keystone of penology in the future and for such treatment these mental tests are necessary. "The Binet method, or at all events its principle has certainly come to stay" (Dr. E. E. Southard, Superintendent, Psychopathic Hospital, Boston, in an address to the American Prison Association at Buffalo 1916). The examiner must, of course, be a trained expert and be able to put the subject entirely at his ease. It is pointed out that the most difficult case in the latter respect is the young offender recently arrested and brought before a court. "Even here a little common sense and scientific insight should enable one to guard against a mistaken diagnosis".

Section X.—The Stanford Revision of the Binet-Simon Tests.

56. The Stanford Revision of the Binet-Simon tests is the result of years of patient work and the examination of 2,300 children. It is based on the principle that with a correct scale the average child of 5 will test out as 5 and the average child of 6 as 6. To remove imperfections in the Binet scale 36 new tests were added, tests for the higher ages increased and carefully tested out, and several tests were re-allocated in the scale. Dr. Terman does not claim that the scale is perfect but that it is free from the more serious error-producing faults of the original. The tendency to exaggerate the number of feebleminded in adults is eliminated. A most important point to note is that it has been applied to several hundred normal adults. It was found that none of them tested out feebleminded nor anywhere near the border line. That is, with this test the normal test out normal. Annexure A. gives a summary of the tests; full information as to their use will be found in *'The Measurement of Intelligence'* by Dr. Terman.

Section XI.—Dr. William Healy's Mental Tests.

57. Several other test scales are in use in America. The only other one which it is necessary briefly to describe is that of Dr. Healy.

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58. Dr. Healy lays emphasis on the variations in language ability. It is an important function and must be evaluated; but many other abilities or disabilities cannot be estimated on this basis, and therefore it cannot be depended on too exclusively. Dr. Healy selected his tests on the basis that wherever possible their performance does not turn on mere language ability. Indeed he carefully warns observers of the dangerous type of mental defective who possess glibness of tongue sufficient to mask their real mental state. He says "It seems to be a matter of common-sense observation that those who can talk well must therefore be mentally normal. We overselves have to confess to being wholly surprised at finding the low mental grade of some members of this class, so ingrained in human judgment is the idea that if an individual can talk well he is *ipso facto* of mental normality. It is more generally appreciated that brilliant conversational powers are not incompatible with mental aberrations, including well-defined insanity. Here we may set forth that there is a like combination of affairs to be met with in mental defectives." (*'The Individual Delinquent.'*) Dr. Healy decides that for children under ten, and for defectives who rank as low as ten, the Binet-Simon test is of the utmost practical usefulness. It is obviously a practical advantage to be able to say to a judge, or any one who has to deal with the offender, that a certain delinquent of say 23 years of age is of the age—mentally—of ten years. He does not, however, consider that the Binet scale brings out all the facts for more advanced years; it grades those glib in language too high, it may place those who cannot use words well too low. He also considers schooling and other social advantages tell too much. He sums up: "The fact is that the scale is really a valuable measure of the lower grades of intelligence. It will have to be revised for our conditions, although there is surprisingly little difficulty with its use in this country. The idea of the system will continue to hold good". Bearing the above in mind Dr. Healy revised his tests so as to require mainly other mental material than language ability for their performance. These tests are to be found in Annexure B.

Section XII.—Definitions of a Mental Defective.

59. Having thus briefly indicated the tests depended on for the measurement of general intelligence, it is necessary to define what a mental defective is. The definition of the British Royal Commission of 1908 is:—"A state of mental defect from birth or from an early age, due to incomplete cerebral development, in consequence of which the person affected is unable to perform his duties as a member of society in the position to which he was born". Subdividing the class, the lowest grade, an idiot, is defined as "a person so deeply defective in mind from birth or from an early age, that he is unable to guard himself against common physical danger." The next grade, the imbecile, is "one who, by reason of mental defect existing from birth, or from an early age, is unable to earn his own living but is capable of guarding himself against common physical danger". The highest grade, the feebleminded (or moron) is "onone who is capable of earning a living in favourable circumstances but is incapable from mental defect existing from birth or an early age (*a*) of competing on equal terms with his normal fellows, or (*b*) of managing himself and his affairs with ordinary prudence." The American Society for the Study of the Feebleminded defines the condition as, "all degrees of mental defect due to arrested or imperfect mental development, as a result of which the person so affected is incapable of competing on equal terms with his normal fellows or managing himself or his affairs with ordinary prudence." The vague phrase "from an early age" which has raised difficulties in England is avoided. Dr. Terman also points out that the definition of the English Royal Commission on mental deficiency state their definition in terms of social and industrial efficiency but that such efficiency does not merely depend on intelligence but also on emotional, moral, physical and social qualities. A lax interpretation of "ordinary prudence" is also a week spot. Terman puts the matters tersely and clearly: "feeblemindedness is a degree of mental inferiority which makes normal independent existence impossible or at least pre-

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carious.". (*'Surveys in Mental Deviation'* by Drs. L. M. Terman, J. H. Williams and Grace M. Fernald). Dr. Healy classifies out mental defectives as follows :—

- **Mental-defectives**
  - **Feeble minded**
    - Idiots (Binet—to 2 years).
    - Imbeciles (Binet—2-7 years).
    - Morons (Binet—7-12 years, unless special capabilities making for social success) ...
      - (*a*) Defective nearly on general level. Typical cases.
      - (*b*) Having special abilities that do not make for social success.
      - (*c*) Some special ability making apparently, sometimes actually, for social success ...
        - (*i*) Good insight into own defect,
        - (*ii*) Language ability,
        - (*iii*) Motor ability.
  - **Sub-normal (a group standing between feeblemindedness and normality, ...**
    - (*a*) Pass Binet test, but defective in constructive planning, apperception, etc.
    - (*b*) Unable to pass Binet test but able to do mechanical or construction tests.
    - (*c*) Arrested development but progressing.
    - (*d*) Doubtful cases.
- **Individuals defective in special and limited abilities only. Otherwise mentally normal ...**
  - Defective ability not interfering with social success.
  - Some defective ability interfering with social success* ... ...
    - (*i*) Arithmetic,
    - (*ii*) Language,
    - (*iii*) Judgment—power of mental analysis,
    - (*iv*) Self-control.

Section XIII.—Application of Mental Tests in Education and the United States Army.

60. Significant of the value of these tests is their use in educational work in America, but still more significant and still more valid testimony to their diagnostic value is the fact that in a great emergency they were freely resorted to. During the great war no nation, not even America with her large population—rejected recruits for trivial reasons, nor looked too deeply into their past. America came late into the war and was anxious to make up for lost time and, though desirous of not expending energy on training bad material, was not likely to waste time over any mere fad, medical or otherwise. The military authorities decided that mental tests should be applied to recruits. The United States army medical service organised a psychiatrical department

*Of course, every one has his weak spot. So long as the limited defect does not affect social life it is immaterial, *e.g.*, musical defect; but language or arithmetic defect may become serious, especially with children at school, where a limited defect, *e.g.*, spelling, may materially hamper the subject's progress.

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and all recruits were subsequently mentally tested and many were rejected on these tests alone. There was some opposition at first. It was difficult to realise that the psychologist or psychiatrist could with the help of these tests give a decision, in an hour or so that the officer could only arrive at by the criterion of failure or success after some months. Yet such was the case. As was natural, occasionally mistakes were made, but the authorities reported that the psychologists were substantially correct in the estimates of the material (1,500,000 men) examined. And it must be remembered that the adult test is harder to fix and evaluate than the tests devised to determine the lower grades of intellect. The test for literates could be given to groups of 500 at a time, only took 50 minutes, and the 212 questions could be answered without writing, merely by underlining, crossing out or checking. The test for illiterates could be given to groups of 75 to 300 and required about 50 minutes. Concrete or picture material was used instead of printed language.

61. Meagher (*'Journal of Nervous and Mental Diseases'* October 1919) records the results of a nervous and mental examination of 54,000 recruits in two camps. In one camp all 24,000 were examined ; in the other camp only such men as the regimental medical officers considered required a special examination. The rejections on nervous and mental grounds amounted to 700 :—nervous diseases 206, psychoneuroses 135, psychoses 99, inebriety and drug habit 36, psychasthenia 70, mental deficiency 154. Commenting on on this the *British Medical Journal* (December 20th, 1919) remarks "his article impresses the reader with the importance of a procedure which saved the American expeditionary force nearly a battalion of potential invalids."

62. On figures based on the Civil War and the Spanish-American War, it had been estimated that in an army of 5,000,000 men, accommodation would be required for 50,000 military defaulters sentenced to over six months. Actually, accommodation for 5,000 only was necessary. On careful examination of these 5,000 by skilled alienists, it was found that, while *qua* intelligence these men ranked with the normal population, with the exception of about 5 per cent., they all showed some mental abnormality or deviation. In the 2,000,000 men sent to France, there were only 8 executions, 1,731 sent to the United States of America to prison, and 120 suicides. In the United States of America pre-war army of 100,000 men, in 1915, one out of every 8 was dishonourably discharged or deserted, there were 56 suicides and the proportion of insanity much larger than in the Expeditionary Force.

63. Lieutenant A. W. Stearns, M.D., M.C., U.S.A., N.R.F., says "The Binet-Simon tests have everywhere been accepted as an aid in determining feeblemindedness....It also seems to be quite generally agreed that there is a high correlation between the score made on mental tests and general capacity." He points out the great value of these tests in selecting men for army courses and preventing the waste of time trying to train lower-grade intellects in work they are unfitted for. Lieut. Stearns himself used a special test scale which he devised, adapting tests from other scales. He concludes : "It appears from experience that it is more accurate and fair than either a written school examination, an educational requirement, or a company commander's recommendation....Its use standardizes admissions to the various schools of the Navy as no other form of examination could possibly do....There is some justification in having an educational requirement for admission to the schools but from our figures this is not as reliable as the result of a psychological test." Speaking of army tests, Dr. Shepherd Franz writes : "In the army tests, which have been mentioned above, grades were given from a minimum of 0 to over 200 in accordance with the speed and accuracy of performance. Eight or ten separate tests were made, each consisting of a number of parts, the performance of all being possible only if the individual was exceptionally speedy. Thus there was taken into account not only whether or not a recruit could do a certain thing (such as simple addition) or knew certain opposites, but also the number he could do in a certain period of time. The standardization of the tests showed that the successful soldiers should be able to do certain things, and to do a certain number of them in a given time. Because of the establishment of 'norms' it could be concluded that those falling below a certain point in score were incapable of making the necessary adjustments in a sufficiently short space of time to become privates, others were capable of learning certain things quickly enough

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for officers. It should be stated that it was also recognized that the amount of knowledge and speed of performance are not the only pre-requisites for officers, and that these intelligence test ratings were not the only means of selection." (*'Mental Examination Methods'*). In the army of the United States of America the psychiatrist not only advises the court-martial as to the sentence and treatment of the offender but also largely decides whether he may subsequently be restored to honorable duty and status or discharged. Annexure C gives fuller details as to the results obtained by the application of psychological tests in the United States Army. In this connection it may be noted that we heard of one University which was going to try the experiment of substituting for its matriculation examination a mental test.

Section XIV.—Mental Diseases, other than Feeblemindedness, as Factors in Crime.

64. Hitherto we have only deal with mental defect, or lack of mind, and we now pass on to consider other mental psychoses or mental affect contributory to the production of crime. Subsequently we present the statistical and other evidence given to us in the United States of America as to the extent to which mental defect and deviation are causes of delinquency.

(*a*) *Dementia praecox.*

65. Patients suffering from dementia praecox form the major part of the inmates in lunatic asylums in England. The question at once arises : is this disease found in the Orient ? Buitenzorg investigated the question at the Asylum at Singapore and reported that almost 80 per cent. of the Malays, Javanese, Sundanese and Chinese inmates suffered from dementia praecox. It is not therefore a disease confined to America or Europe. The recent pathological investigations of Sir Frederick Mott throw an illuminating light on this disease, its symptoms and course. It is no easy question in many instances to decide whether a delinquent is suffering from dementia praecox, variable in its symptoms, protean in its manifestations, slow in its progress and liable to arrest. This last peculiarity renders it difficult to judge the case unless the observer has at his disposal an accurate history of the previous mentality. Dr. Healy only found 25 cases in 1,000 young delinquents. But could the history of the subject be traced accurately, it might often be found that a mild attack of this disease, or the disease in its incipient stage, had produced a mental deterioration which had, characteristically of this affection, led the individual to attempt to evade the responsibilities or stress of life, and drift into a vagrant life, or decline any continued effort, a condition very prone to lead to, at least, minor crime. Its prominence as a factor in crime has probably been exaggerated by some observers, and perhaps the fairest way to demonstrate its likely value as a causative factor of delinquency is to quote a few sentences from the standard book on this disease by Professor Emil Kraepelin of Munich—the recognized authority on this subject. The book is naturally written entirely from a medical and scientific standpoint and with no special reference to criminals, crime or prisons. "Not only in the former history of the patient do we find manifold contraventions of the penal code and public order, but also during the disease itself deeds are frequently committed which are dangerous to the commonweal. Pighine found that among 114 mental patients sentenced, 49.1 per cent. were cases of dementia praecox. (p. 33, Dementia Praecox and Paraphrenia)....A not inconsiderable number join without resistance the crowd of vagabonds which chance leads to-day hither, to-morrow thither. (p. 37)....A considerable number fall into the crowd of beggars and vagabonds and vacillate hither and thither in a half-witted state from year's end to year's end between public highway and workhouse, where ever anew the hopeless attempt is made to turn them into useful people again. (p. 92, Dementia Simplex)....They are weak, tired, lazy, without initiative, irresolute, let themselves become destitute, live carelessly a day at a time, fling away money and possession carelessly, and

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let themselves drift according to chance influences, and therefore come quickly down in the world, especially if they take to drink. (p. 107)....Among the women were several prostitutes, among the men 19 per cent. were vagrants. In about 30 per cent., the disease began sub-acutely, usually it was a case of convicts, who fell ill during imprisonment (p. 154, Paranoid Dementia Mitis).... Almost always indeed it was here a case of the outbreak of morbid phenomena in individuals who already, years ago, had fallen into a career of crime, sometimes after good development in the beginning, but often also on the foundation of a disposition unfavourable from the first, or of a neglected education....Among men two-thirds were vagrants and criminals, probably a sign that we have here to do with individuals of inferior disposition, or, what in many cases seemed to be the more correct view, with a very gradual change which reached far back into the past and which only after a considerable number of years acquired marked morbid features (pp. 165-166, Paranoid Dementia Mitis)....The general conduct of life of the patient is invariably influenced to a considerable degree by their malady. Many are impelled to enter the path of crime (theft, indecent assault) or vagrancy: they wander restlessly about, are not capable of any regular work, neglect themselves and come down in the world (p. 173, Paranoid Dementia Mitis)....Without doubt, especially in vagrants and criminals, a change of personality may gradually develop in youth, the morbidity of which is only recognized much later (p. 227).... The fact already touched on is striking, that the outbreak of dementia praecox frequently takes place in *prison*. Among 600 men about 6 per cent. had fallen ill in detention, in jail, or in the convict prison: to these were added 8 per cent. of vagrants of whom likewise a considerable number had shown the first symptoms of the disorder in the workhouse. It is suggestive of the possibility that the emotional influences of the loss of freedom, the monotonous food, the limitation of movement, the being shut up from air and light, the facilitation of onanistic tendencies may be productive of disease. In more exact investigation, however, it can be shown for a considerable number of the cases that probably already a long time previously changes of the personality in the sense of dementia praecox had taken place, which then made the patient an habitual criminal and vagrant" (pp. 241-2.)

66. From the above quotations it is fairly clear that dementia praecox may furnish no inconsiderable quote of recruits to the army of wastrels and criminals. And here it is particularly relevant to note that Kraepelin states that the disease occurs frequently, although few of those affected are looked upon as sufferers from mental disorder and fewer still come to be treated by the alienist (p. 93). Careful study of Kraepelin's work shows fairly clearly that certain peculiarities of dementia praecox may be revealed by psychological tests, (a deduction supported by Dr. Hickson of the Municipal Court Clinic of Chicago) though it must always be remembered that dementia praecox, and especially in the early stages, affects mental capacity, and in particular memory, very much less than the emotional life and volition; and so a purely mental test may fail to reveal the deterioration of mind and disassociation of ideas leading to anti-social conduct.

(*b*) *The Epilepsies.*

67. Epilepsy is a disease very commonly connected with crime. Years ago Sir Thomas Clouston said: "murder by the epileptic should be regarded as much a symptom of the disease as larceny by the general paretic." The term 'epilepsies' is now generally used by many in preference to 'epilepsy' as in addition to the "grand mal" and "petit mal" minor varieties have been, of late years, recognized.

68. *Psychic epilepsy* is defined by Dr. Healy "as a mental attack leaving the motor functions undisturbed. There is sudden temporary loss of higher conciousness, of complete apperception, with pathological loss of memory. These seizures may last for a few seconds, or for hours, or even days. The individual in these states automatically reacts to various perceptions and impulses."

69. *Epileptic equivalents* or "epileptic dream states" are characterised by curious mental and physical conditions due to paroxysmal disturbances of various nerve centres. Violent periodic fits of bad temper characterised by misbehaviour or bad conduct, especially in a prison—"mental

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storms" in fact—may be classed under epileptic equivalents and this class is common enough in Indian prisons. These minor forms of epilepsy are likely to lead to crime and require careful and often prolonged observation for their detection. Out of 1,000 young recidivist offenders, Dr. Healy found 7 per cent. definitely epileptic, with a number of doubtful cases.

70. The late Mr. Thomas Holmes, London Police Court Missionary, in his little book '*Psychology and Crime*' alludes to the fact that, in 1910-11, 155 epileptics were admitted into three prisons in England—Liverpool 92, Wakefield 53, Parkhurst 10. He points out the interesting fact that the children of epileptics, though themselves not epileptic, often prove very strange beings, irresponsible, idle, shiftless and frequently resorting to crime. "Irresponsible creatures possessing strange minds, clever in certain directions, and those directions not for good : capable of serious crime, but never exhibiting any sorrow, fear or remorse when convicted of any offence. They generally insist upon their absolute innocence but go to prison just as unconcernedly as they would go elsewhere." This is almost a description of psychic constitutional inferiority (*vide infra*) and is given by a non-medical man, but one who for 25 years was in the closest touch with criminals and knew the criminal of London, his home and surroundings as very few other men have done.

(*c*) *Other Psychoses.*

71. Paranoid and manic-depressive insanity contribute a proportion of criminals. Cerebral syphilitic disease, and deteriorations of the nervous system and bodily health, due to syphilis leading to aberrations or minor psychoses, may be the real cause of a criminal career. General paresis, practically always due to syphilitic poison, is recognized as a form of insanity which very often gives rise to crime, generally minor offences.

(*d*) *Psychic Constitutional Inferiority.*

72. Psychic constitutional inferiority or the "psychopathic constitution" : this form of mental deviation or abnormality has been much studied in the United States and on the Continent of late years. Dr. H. M. Adler, State Criminologist, Illinois, explains this condition thus : "It fills a gap in the old nomenclature caused by the widening field of the psychologists and psycho-pathologists. The old distinctions between sanity and insanity have lost their former clear-cut sharply dividing features. There is a great increase in the number of cases in courts, in which, while the question of insanity cannot seriously be considered, the existence of an abnormal mental state is clearly recognized and demands special consideration. This group of cases, representing a large proportion of cases disposed of in criminal courts cannot be satisfactorily dealt with under the older conception of insanity. A term to designate the group was necessary which was wider in its scope than any of the old classifications and yet included the latter." Dr. William A. White in his *Outlines of Psychiatry*' says : "Insanity should not be used as a medical term at all. It is solely a legal and sociological concept and so used to diagnose those members of the community who are so far from able to adjust themselves to ordinary social requirements that the community segregates them (forcibly perhaps) and takes away their rights as citizens....Insane, therefore, means nothing more than certificable." Similarly Dr. Healy writes : "Legal dicta represent merely certain conceptions of ways to deal with some social exigencies, and these conceptions, so far as criminal law is concerned, always have been built up in default of attempt to trace fundamental issues, and entirely without study of the ultimate efficiency of adopted measures."

73. People of constitutional psychic inferiority supply the world with ill-balanced individuals, eccentrics, cranks, faddists, sexual perverts and those inadjustable to their environment. They are often superficially brilliant, sometimes really brilliant. "Their life is one long contradiction between the apparent wealth of means and poverty of result" (Regis '*Practical Manual of Medicine*'). They form a large proportion of the chronic vagrant and tramp. They are weak in will, suggestible, selfish, irritable, suspicious, liable to fits of excitement and depression and very egoistic.

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They may, as Dr. Healy says, "be distinctly bright, even geniuses, but lack the power to meet the steady demands of life." As Healy very appropriately points out, this type has for many a long year been recognized by the great novelists—observers of human nature—and many examples are met with in literature.

74. Ziehen, whom Dr. Healy supports, states that with psychic constitutional inferiority distinct bodily abnormalities are common. Physically as well as mentally they are inferior (*cf.* Dr. Goring *'The English Convict'*). They are, says Dr. Bowers, frequently "dreamers, reformers, propagandists and kerbstone Bolsheviks, and should they come in contact with the law they assert that the wrong lies with society and not with themselves."....Again Dr. Christian writes: "many of these persons appear to the casual observer to be bright and clever, and in prison they usually occupy positions requiring rather more than the ability of the usual inmate. They are generally of pleasing address, excellent talkers, and are always willing and anxious to impress their views upon the chance listener. They are invariably eager to give reasons, usually specious, tending to justify any bad conduct or crime with which they may have been charged. Their mental characteristics, though many and varied, remove them so far from the normal that, despite their real or apparent cleverness, they have not the stability to make successful industrial progress. Success in any line of endeavour is almost always temporary in character....These unfortunates, possibly by reason of a superficial impression of normality presented to the untrained observer, were not until recent years recognized as laboring under the handicap of mental inferiority, and in the modern idea of segregation of the defective delinquent, little note has been taken of the psychopath, despite the fact that at liberty he is more dangerous by reason of his superior intelligence, making diagnosis difficult, than is the simply feebleminded criminal. From this group come many of the impostors who prey upon well-intentioned reformers and whose wonderful stories are taken as the unshaken truth." (Dr. F. L. Christian *A Study of 500 Parole Violators'* 1918).

75. The eccentricity or deviation of the psychopath may be of a normal kind. He may be peculiar queer, a crank, "with a bee in his bonnet, a queer streak in him" but he is not anti-social. It is when the kink in his mind has the wrong twist, so to speak, that he turns to criminality. The lazy shiftless vagrant is the anti-social variant of the great traveller or adventurer. It is the psychopath with evil tastes or an evil environment who is likely to become an offender. They are markedly susceptible to stimulants which increase the irritability of an already irritable mind. The "hobo," "tramp" and "vagrant" are not commonly found in India but their place is taken by the beggar—wandering or otherwise. Of this class many are physically defective and more are "bone lazy," mentally defective or psychopaths.

76. That mental disease can no longer be measured by the narrow law of certifiable insanity, and that in England also a number of these cases exist and are at present improperly dealt with, is evident if we turn to "Psychology and Crime" by the late Thomas Holmes, so long a court missionary in London, and subsequently Secretary to the Howard Association. His observant mind recognized, and he described, this group of uncertifiable insanes: they must be painted in his own words. "The men and women of whom I now speak suffer from some sort of mental disease that has not yet been classified, but which prevails to a much larger extent than the public is aware....such men and women continue for years at their places of business or in their situations, conducting their affairs in an efficient way, to their companions they seem quiet decent people, though a little sombre ....But very different is the impression produced on those who unfortunately know them at home ....While all sorts of imaginings occupy their minds, some great delusion seems to dominate them and destroy every atom of home comfort....Place them under authority, surround them with medical officers, question them and examine them, watch them unceasingly and they defy every member of the faculty to find traces of insanity*....In such circumstances they can control their thought and speech; to a certain extent they can make the worse appear the better reason.... Only at liberty, when free from all control, is their condition made manifest——the overmastering belief in the altogether imaginary wrongs they suffer at the hands of their friends....The behaviour of such men is both maddening and heart-breaking; sometimes it continues for years and

*That is, it may be noted, of legal or certifiable insanity.

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the home gradually becomes a hopeless hell. Sometimes when a spell of passion or violence has been particularly exhaustive, I have known it followed with a period of almost stupor, forgetfulness and absolute irresponsibility. Crimes of violence, suicide or attempted suicide sometimes result....I have sat beside such men as they lay in bed. I have watched the expression in their faces, and I have listened to their heavy breathing, for words they had none. I have seen them rise from bed in a state of stupor and do some foolish or childish thing. I have been ignored as if I were not present, and I have been made aware of the strange fact that maddening excitement had been followed by suspension of mental faculties....Frequently men of this description are arrested by the police and charged with violence and disorderly conduct....Back to their homes they go confirmed in their delusions, and made more bitter by their arrest and detention. Especially is this the case if a long-suffering wife has herself appealed to the police for protection. It is small wonder that some of these unfortunate men are ultimately executed for wife murder."

77. Mr. Holmes has in his group mixed up several types, minor epilepsies, paranoid states, psychoneuroses and psychopaths, for these latter are liable to episodic fits of irritability, excitement, depression, paranoid states, and transient confused states. Nevertheless his observation is extraordinarily interesting as that of a non-medical man and clearly illustrates the weakness of the old conception of insanity. Compare with the above quotation the following: "There are some people who are not fit to be at liberty. They are so reckless of their own interests, and the interests of others that, when uncontrolled, they become a danger. Some of them are insane and the lunacy authorities should attend to them. Others, through indulging their temper, are in the way of becoming insane; but their mental unsoundness is not so marked as to cause the lunacy specialist to certify them. That is no reason why it should not be recognized. At present they annoy those around them with more or less impunity until they attain the ideal standard of insanity, in the process of their graduation paying visits to prison. There is no reason why they should not be dealt with from the beginning. There is only precedent taking the place of reason." (*'The Criminal and the Community'* by Dr. J. Devon).

(e) Psychoneuroses.

78. Under this head come neurasthenia, hysteria, psychasthenia. (obsessional and impulsive states, phobias, morbid doubts, etc.), volitional impulses, kleptomania, pyromania and anxiety neuroses. The necessity for examining very carefully men who suffered from "shell shock" or neurasthenia (as the result of experiences during the war) if they commit criminal acts is now recognized. The same necessity exists really for a careful mental examination of all cases; for as Dr. Head says (in a paper addressed to the Society of Medical Officers of the Pension Board): "No new morbid phenomena have been evoked by the war. The disordered functions of the human mind were manifested in exactly the same forms as under the stress and strain of peace-time civilization....In civilian life the factors underlying a psychoneurosis are far more complex, they may lie in different fields—thwarted ambition, business worry, and family anxieties, apart altogether from the disaccord between sexual desires and social convention." (*'Observations on the Elements of the Psychoneuroses'*). When the civilian suffers from this disorder of function it is because he finds the stress of life too much for him, he finds he cannot cope with his task in life and finds it hard to fit in with his surroundings. Ill-health or any other similar cause may turn the scale the wrong way. What is recognized as necessary in the case of a war neurosis is obviously applicable to a neurosis of civil life.

(f) Mental Conflicts.

79. There remains one field of mental trouble which has hardly been touched as yet in England, as far as criminals are concerned, but which has been carefully studied in the United States with direct reference to the delinquent. Dr. Potts in his paper (*'The Mentally Defective and Unstable brought before Courts,'* the Brimingham scheme) says "By modern methods of investigation, we can see the inner workings of the mind. Mental analysis and psycho-therapy have untold possibilities in many cases." The subconscious mind is very powerful as regards emotion and volition. Bergson speaking of memory says: 'doubtless we think only with a small part of our past, but

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it is with our entire past including the original bent of our soul that we desire, will, and act. Our past, then, as a whole is made manifest to us in its impulse ; it is felt in the form of tendency although a small part of it is only known in the form of idea." Skilled mental analysis shows that the subconscious mind works on definite lines and that early experiences buried in the subconscious may produce psychic processes which may lead to crime. It can hardly be denied by any one who has studied '*Mental Conflicts and Misconduct*' by Dr. William Healy, that mental conflict may lead to many forms of misbehaviour, more evidently so, or rather more easily discoverable, in children and young adults, though also true of adults. Starting with no preconceived idea or *a priori* theory, Dr. Healy's conclusions are based on the examination of juvenile delinquents. It is very clearly demonstrated by him that the repression of a mental complex hidden away in the subconscious frequently produces a discharge of mental energy through another channel of the mind, leading to misconduct, often of a criminal nature. Equally clearly he shows that the tendency to crime from such causes can be dealt with adequately by recognizing the hidden spring of action and adopting suitable treatment, and certain problems in delinquency can only be so treated properly. If the hidden cause of the mental conflict is brought to light and faced, its disturbing influence often vanishes. In some cases complete change of environment and radical alterations in the offender's home treatment may be necessary. The therapeutical value of working off the emotion is undoubted and the energy arising from the mental conflict can, once appreciated, be diverted frequently into useful and social lines. This is found to be as useful in a psychoneurosis like hysteria or "shell shock" as in the conflict in the mind of an offender. Dr. Brown, Reader in Psychology, London University, in a lecture to psychology students, King's College, lays stress on the fact that the curative agent is the abreaction which removes the cause of the symptom and not any auxiliary aid like hypnosis, which merely removes the symptom ; a point both Dr. Healy (*'Mental Conflicts and Misconduct'*) and Dr. Jones (*'Modern Treatment of Nervous and Mental Diseases'*) emphasise. There is in medical literature a great mass of fact and observation supporting Dr. Healy's conclusions and their value, in the case of youthful offenders especially, appears to be established. In considering the causation of crime, especially with youthful offenders, these mental conflicts cannot be ignored, as the origin of the offence can so frequently be traced back to the mental life of childhood, but the subject is too large and too technical to permit of further details in this place.

Section XV.—Evidence as to the Importance of Mental Defect and Mental Abnormality as a Causative Factor of Crime in the United States.

80. It is necessary to present for consideration the evidence laid before us in the United States in support of the views held so strongly in that country and put before us so insistently. Our difficulty is to select from the enormous mass of evidence and statistics available. In '*The Individual Delinquent*' Dr. Healy presents the results of the examination of 1,000 juvenile repeated offenders from 1909 to 1911. The figures given below are for 823 cases out of the 1,000, as these 823 were studied by the completer methods Dr. Healy insists on and so can be used for satisfactory comparison of causative factors.

Summary of Causative Factors by groups and totals in 823 cases—560 males, 263 females.

Groups of causative factors.	Number of times appearing as—		
	Major factor.	Minor factor.	A factor (*i.e.*, Total)
Mental abnormalities and peculiarities	455	135	590
Defective home conditions including alcoholism	162	394	556
Mental conflict	58	15	73
Improper sex experiences and habits	46	146	192
Bad companions	44	235	279

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Summary of Causative Factor by groups and totals in 823 cases—560 males, 263 females—concld.

Groups of causative factors	Number of times appearing as— Major factor.	Minor factor.	A factor (*i.e.*, Total).
Abnormal physical conditions including sex development ..	40	233	273
Defects of heredity	..	502	502
Defective or unsatisfied interests including misuse or non-use of special abilities	16	93	109
Defective developmental surroundings	..	214	214
Mental shock	..	3	3
Deliberate choice	1	..	1
Sold by parent	1	..	1
Use of stimulants or narcotics	..	92	92
Experiences under legal detention	..	15	15
Educational defects, extreme	..	20	20
Totals	823	2,097	2,920

Analysis of mental abnormalities and peculiar mental characteristics.

	Number of times appearing— As Major factor.	As Minor factor.
Defective types.		
Poor native mental ability	6	5
Mental subnormality	66	2
Feeblemindedness, Moron	87	..
Feeblemindedness, Imbecile	5	..
Dull, perhaps from ascertained physical causes, including some cases of epilepsy	28	5
Specialized defects including defect in self-control	16	8
Aberrational types.		
Epileptic mentality	60	3
Hysteria with well marked mental manifestations	12	2
Psychoses.		
Paranoia	4	..
Dementia praecox	4	..
Juvenile paresis	1	..
Manic-depressive insanity	2	..
Confusional excitement during pregnancy	1	..
Major psychoses not classified	34	..
Minor psychoses not classified	17	1
Adolescent psychoses	4	..
Choreic psychoses	2	..
Traumatic psychoses	3	..
Hypomania	2	..
Amnesia fugues	1	..
Temporary psychoses	3	..

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Peculiar mental characteristics.	Number of times appearing— As Major factor.	As Minor factor.
Adolescent instability, marked cases	30	61
Social suggestibility, extreme	9	6
Love of adventure, extreme	5	5
Marked sensual type	6	10
Constitutional inferiority, marked neurasthenic and psychopathic types	20	2
Extreme stubborn reckless self-assertive type	3	3
Marked criminalistic impulses on analysed mental basis	12	..
Extreme laziness in spite of very good physical and mental endowment	1	..
Hypersensitiveness	2	1
High mental ability, only in connection with unsatisfied interests	3	2
Obsessed by mental imagery	1	5
Racial characteristics extreme, Indian, Negro or both	3	5
Total	453	126

81. Dr. Christian, Superintendent of the New York State Reformatory, Elmira, made a special study of the personal history and a psychological study of the cases of 500 failures on parole. These were inmates who had been paroled to properly investigated and suitable places of employment and conditions of parole had been most carefully explained to them. The object of the investigation was to discover the real cause of the failure on probation of these young adults. The summary of the result of the investigation is given below :—

Responsible offenders 16 or 3 per cent. Drug addicts 28 or 6 per cent. Insane 9 or 2 per cent.

Defective delinquents 181 or 35 per cent. Epileptics 53 or 11 per cent. Vagrants 46 or 9 per cent.

Psychopaths 115 or 23 per cent. Alcoholics 31 or 6 per cent. Gangsters (Hooligans, Apaches) 21 or 4 per cent.

Of the above there were :—

Normal 33 or 6 per cent. Subnormal 380 or 41 per cent. *Custodial 89 or 18 per cent.

The industrial capacity of the 500 is shown as :—

Capable of self-maintenance 84 or 17 per cent. Semi-dependent 206 or 41 per cent. Dependent 210 or 42 per cent.

It must be remembered that these are the failures of the reformatories. On examining 1,000 consecutive admissions the industrial capacity was classified as follows :—

Self-sustaining 38 per cent. Semi-dependent 42 per cent. Dependent 20 per cent.

In elucidation of some terms used in these classifications it may be explained that a responsible offender is one who realises he is doing wrong in committing a crime and deli-

*Custodial signifies that class who need permanent custodial care and corresponds to the term segregable."

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berately does it; a defective delinquent is a feebleminded person with criminalistic tendencies, but some observers use the term to include all mentally subnormal offenders. An important point brought out in the investigation is the fact that the mentally defective paroled prisoner is a handicap on the normal paroled prisoner who wishes to turn over a new leaf, for a few experience of paroled mental defectives or mental abnormals render employers chary of giving opportunities to other men on parole. Dr. Christian believes that "the crime problem as it exists to-day is 10 per cent. accidental, 40 per cent. sociological and 50 per cent. medical; the last being the most difficult of solution, including as it does the development of practical eugenics and the etiology of undeveloped mentalities." (*'A Study of 500 Parole Violators,' Dr. F. L. Christian, M. D.*)

82. A special committee of the State Commission of Prisons, State of New York, was appointed to investigate the matter of mental disease and delinquency. In their report (1916) they say "In New York State, reports coming from the State Reformatory of Elmira, the State Reformatory for Women at Bedford Hills and Auburn and Sing Sing Prisons, speak in no uncertain terms of conditions found with such a high degree of frequency among prisoners at to make clear a definite relationship between delinquency and mental disease and defect." They adduce the first annual report of the Psychiatric Clinic at Sing Sing in which Dr. Bernard Glueck states: "of 608 adult prisoners studied by psychiatric methods out of an uninterrupted series of 683 cases admitted to Sing Sing Prison within a period of nine months, 66.8 cent. were not merely prisoners, but individuals who had shown throughout life a tendency to behave in a manner at variance with the behaviour of the average normal person, and this deviation from normal behaviour repeatedly manifested itself in a criminal act." Further, "of the same series of 608 cases 59 per cent. were classified in terms of deviation from average normal mental health. Of the same series of cases 28.1 per cent. possessed a degree of intelligence equivalent to that of an average American child of 12 years or under."

83. They submit the following tables amongst other :—

Table showing percentage of inmates of prisons, reformatories and houses of correction found to have some nervous or mental abnormality, and to be feebleminded or regarded as segregable.

Institution.	Authority.	Percentage.			
		Number of cases studied.	Found to have nervous or metal abnormality or defect.	Found to be feeble-minded.	Regarded as segregable.
Auburn Prison, N. Y. (men)	Dr. Frank Heacox	459	61·7	35·6	17·9
" " (women)	Dr. Mabel Fernald, Ph. D.	76	...	25·0	...
Indiana State Prison	Dr. Paul Powers	100	45·0	23·0	...
Joliet Penitentiary (Ill.)	Louisa and George Ordhal	49	...	28·5	...
Massachusetts State Prison (men)	Lieut. A. W. Stearns and C. C. Rosey	300	34·9	22·0	...
San Quentin (Cal.) State Prison	Dr. L. M. Terman, Dr. J. H. Williams, and Dr. Grace M. Fernald	155	...	17·4 Feeble-minded.	...
				12·9 Border zone.	
Ditto	San Quentin Prison Report	...	...	...	17·9
Sing Sing Prison, (N. Y.)	Dr. Bernard Glueck	608	59·0	21·8	15 to 25
Elmira Reformatory	Drs. F. L. Christian and J. R. Harding	400	58·0	...	17·9
Massachusetts State Reformatory (men)	Dr. Guy Fernald	1,876	59·0	...	15·5
Massachusetts State Reformatory (women)	Dr. Edith Spalding	500	63·0	...	24·8
Winchester County Penitentiary	Dr. Bernard Glueck	225	57·0	...	...

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84. The Committee quote the extremely interesting investigation made by Dr. V. V. Anderson at the Municipal Court, Boston : 100 feebleminded offenders were studied intensively, the cases were taken from the court files alphabetically ; no other selection was made than that each individual had been diagnosed as feebleminded. These 100 mental defectives had been arrested 1,825 times, placed on probation 432 times, placed in non-penal institutions 118 times, sentenced 735 times, their sentences aggregating in fixed sentences to 106 years, exclusive of 250 indeterminate sentences in reformatories. Records beyond five years back were not gone into though some had such old records. Not one of the 100 possessed more intelligence than a child of 12. 75 per cent. had the mental level of children under ten. 75 per cent. had never been legitimately self-supporting. 73 per cent. though having ample opportunities for common school education, beginning school at the usual age and leaving at 14, 15 and 16 years, were never able to get beyond the 5th grade in school.

85. The Committee state : "The existence of mental disease and deterioration, intellectual defect, psychopathic personality, epilepsy and the like, in a fairly large proportion of the inmates of these institutions makes it obvious how futile it is merely to go on blindly administering the law instead of endeavouring to solve the problem these individuals present." The Committee confirmed Dr. Christian's opinion that but for the mental defective and mental abnormal punishments in prison would practically disappear. Their recommendations will be found below when we come to deal with the system in vogue in America. Selection from the mass of statistics furnished us in America is difficult but we finally subjoin the result of one of the most instructive surveys made in the United States which is to be found in *'Surveys in Mental Deviation in Prisons, Public Schools and Orphanages in California'* by Dr. Lewis M. Terman, Dr. J. Harold Williams and Dr. Grace M. Fernald—a publication well worth persual. In the San Quentin Prison there were feebleminded (*i.e.*, of a mentality not above 11 years) 17.4 per cent., border-zone 12.9 per cent. and dull-normal 25.2 per cent. The observers say : "In this classification we have been extremely conservative. There is no doubt many psychologists would have classified a majority of our border-zone cases as feebleminded and many of our dull-normal as border-zone cases." In the Whittier Reformatory School 29 per cent. were found to be feebleminded. It is interesting to compare the percentages found to exist in prison and reformatory with those determined in the ordinary population ; from ½ per cent. to 1 per cent. of the general population, it is estimated, is feebleminded. Of 150 *unemployed* men (vagrants), 10 per cent. were feebleminded ; of 156 *employed* unskilled men 3 per cent. were feebleminded ; and of these none had a mental age below ten while among the prisoners and the unemployed the feebleminded went as low as 7½ years. Of 40 Wells Fargo employees, none tested feebleminded ; of 150 high school graduates and of 40 business men, none tested anywhere near the border line.

86. The writers of this report sum up as follows : "If an individual grades below the ten-year level it appears that a normal social life is rendered so difficult that the term 'feebleminded' practically always applies. We have never yet tested a person below this level who could by any reasonable use of the term be called normal. Such an individual may be equal to certain kinds of unskilled labour under supervision, but supervision and social guidance are always necessary." Lacking it, the individual is non-dependable and incompetent. He is a social menace, for moral responsibility cannot rise above the intelligence level. On the other hand, the person who grades as high as 12 years is rarely debarred, by reason of his intelligence alone, from living a reasonably normal life at some kind of useful labour, even though it may be of a humble sort." Dr. Bernard Glueck also takes this view : "We should feel no hesitancy in agreeing that at least all those cases who do not reach a mentality beyond ten years, ought to be more or less permanently segregated." (*'Study of 608 admissions to Sing Sing Prison,'* Mental Hygiene, January 1918).

87. The study of degenerate families confirms the preceding figures and opinions. Such books as *'The Kallikak Family'* (Goddard), *'The Hill Folk'* (Danielson and Davenport), *'The Jukes'* (Dugdale) give a lurid picture of criminality and vice running from generation to generation in a bad stock. As the psychological expert to the Birmingham Justices in England says : "If the enormous cost to the community be realised of one lifelong criminal and the degenerate descendants he or she may have in a few generations, it will be recognised that the expenditure of a pond or two at the outset may save the country thousands of pounds in the end." Dr. W. E.

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Fernald puts the truth plainly : "Feeblemindedness is the mother of crime, pauperism and degeneracy."

Section XVI.—The Difficulty of the Problem increases with Industrial Development.

88. This problem of mental defect and unstable or abnormal mental conditions becomes more defined, as a nation becomes more civilised and when industrial centres develop, having temptations of every kind and a strain of living unknown in the smaller town or in rural life. It is the large city that tries out the mentally defective and unstable most severely. An adult with a mental age of 11 or 12 may do quite well in the country and more especially so if of good bodily physique ; ordinary agricultural work does not demand much from him : he has only to carry out a daily simple routine task. He may never commit a criminal act nor harm society save in propagating a fresh generation of mental defectives. In the large cities and industrial centres, however, the feebleminded are very likely to come in conflict with the law and are very apt to become part of the "submerged tenth," a great number of whom are probably mental defectives and mental abnormals who, uncared for and uncontrolled, sink to the level of their mental capacity. Dr. Devon, Commissioner, Scottish Prisons, very lucidly deals with the contrast between country life and that in large cities in '*Criminals and the Community*,' Chapters I, II, III, Part II.

89. Nowadays the mental defective is put to a far higher test than he was 100 years ago. A higher standard of education is demanded, he cannot reach it. A higher degree of manual skill and technical knowledge is asked for, he cannot supply it. A higher standard of life grows up, he cannot appreciate it, desire it or act up to it. As great cities spring up in the development of a country, so surely will that country come to realise the flaw in many of its inhabitants. When industrial crises or bad times come, the first to be discharged and the last to be re-employed is the mental defective.

Section XVII.—Penological Methods in the United States.

90. The penologist in the United States stands for the study of the individual, a study which in the light of the preceding pages we maintain is absolutely necessary. In the words of Dr. H. M. Adler, State Criminologist, Illinois, "up-to-date every prisoner has been treated alike. This is wrong, because we want to get at the underlying cause of crime. It is true that, as in a disease, you may be able to treat without knowing the cause, but, as in disease, you treat very much more intelligently and effectively when you know the cause." In fact until the American penologists developed their theory the large proportion of culprits were fitted to a Procrustean bed, whether it was the uneasy pallet of punishment or the softer couch of reformation. In many of the cities we visited in America we found provision for court clinics, where the offender is examined by a skilled psychologist or psychiatrist and a report on the case submitted to the judge. This report, as well as that of the probation officer, is considered by the court before it decides on the course to be taken with the culprit. Several judges we met were enthusiastic

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believers in the great value, from their point of view, of such an examination. We were told by some judges (one at first a sceptic) of the benefit to be derived from such an investigation, and that they would not now deal with their cases without this expert assistance.

91. That such a procedure is only common-sense would appear to be obvious and doubly so with regard to children and young adults. Without such a report on the physical and mental condition of the delinquent, it is difficult to see how the acutest legal intellect can decide whether a reprimand, with or without restitution, probation, committal to a reformatory institution or a prison, is the best solution of the case. In dealing with a child, the best course to adopt in that child's interests (and in the case of children no other interests logically can come into consideration) can only be decided when the mental condition of the child as well as the home surroundings have been investigated. Mr. Clarke Hall (Presiding Magistrate, Children's Court, Old St., London) says: "A great defect, however, in the English courts as compared with the American is the absence in the former of medical reports. This absence is, of course, due to the divergency of views as to the nature and treatment of juvenile delinquency with which I have already dealt. In England it is thought sufficient to divide children into two classes of normal and mentally defective, but in America the child's physical and mental condition is in all respects fully reported upon and considered. It is submitted that without such a report, and without the means of acting upon it, children's cannot be fully or efficiently dealt with." (*'The State and the Child'*—by W. Clarke Hall). How in England children can be even classed out as "normal" and "mentally defective," in the absence of any skilled psychological or psychiatrical examination, is somewhat difficult to understand.

92. Flexner and Baldwin (*'Juvenile Courts'*) say that children who are mental or moral defectives should not be placed on probation but sent to a suitable institution; probation is rarely successful, discharge is worse. Mr. Cecil Leeson (*'Probation System'*) concurs; he considers mental examination necessary and the putting of epileptics or mental defective on probation to be useless. These conclusions apply equally forcibly to juvenile adults and to adults. Probationer, therefore, to be efficiently, economically and judiciously put into operation necessitates the proper psychological, psychiatrical and physical examination of the subject.

93. In most of the reformatories and prisons we visited in the United States we found that mental examination of the admissions was carried out. In every prison where these scientific methods were in use they were welcomed by the wardens and superintendents, whether they were medical men or not; they recognised that it helped them in their onerous duties; as the superintendent of the Elmira Reformatory said: "We do not carry out these examinations from purely altruistic motives but to enable us to run our reformatory more easily and efficiently." The physical examination being completed, psychological mental tests determine the patient's mental capacity; further investigation may reveal psychosis, psychoneurosis or the psychopathic constitution. When the inquiry is completed, then and then only are the prison authorities in a position to deal adequately with the discipline, punishment and reformation of the prisoner and his future parole. We say "parole" for it is as important to know accurately the mental condition of a prisoner on release on parole as it is to know it on admission. We have shown that this, at least, is clearly proved by Dr. Christian's examination of parole violators. The necessity of selection for the various institutions is clear. An institution for normal people is frequently anything but beneficial to the feebleminded and the feebleminded retard and hamper the working of the institution as well as the progress of the normal inmates.

94. American penology therefore demands court psychiatrical clinics dealing with culprits appearing before the judges, clearing-houses whence, after physical and mental examination, the delinquents,—children, juvenile adults, or adults—pass to the schools, reformatories or prisons best suited to their needs, or to State institutions for the mental defective and deviate where, if necessary, they can be permanently detained. In the last case the detention would be indefinite, though parole would be possible if the inmate showed such improvement as would warrant

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such a step. It is, however, well to realise that "mental defect" is not *curable*. The great importance of the examination of all children (both delinquents and neglected children) is emphasised and it is suggested that if possible children in schools should be tested so that mentally defective potential delinquents may be detected at an early stage and such measures as are possible may be taken to prevent them from sliding into crime.

95. It is strongly held that psychological tests, with a physical and psychiatrical examination, is the best method for forming a generally accurate conception of an individual's mental capacity, and, in the case of an offender, of getting at the underlying cause of the crime, of intelligently deciding as to the probability of reformation and the capability for leading a social life. Moreover, in the case of certain crimes, brutal, causeless murders and sexual offences and recidivism, it can be decided clearly and logically as one would diagnose a case of certifiable insanity whether a sentence of permanent seclusion is necessary and justified, so that the criminal shall return no more to that society whose moral sense he has outraged and to whose laws and customs he cannot conform.

96. The dynamic centre of the whole problem of delinquency and crime will ever be the individual offender (*'The Individual Delinquent'* by Dr. Healy). In this treatment of the individual it must not, however, for a moment be supposed that the system is one all in favour of the prisoner and neglecting the interests of society; the interests of both are weighed and considered. It is to the advantage of both that the offender should be given—if feasible and if his crime is not of too grave a nature—the chance of making good without going to an institution or prison. Probation, where efficiently run, is an economical proposition to the State and the offender escapes the stigma of prison. If a culprit does go to a reformatory or prison it is in his interests and in those of the State that he should be reformed if possible and, having expiated his offence, return to society as a useful member. But it is above all in the interests of society that the mental defective or mental abnormal, who cannot be reformed, whose mentality renders him unfit for, and unadjustable in, society should be recognised as a permanent menace to society, and kept if necessary under custodial care. This is lucidly put by Dr. Bernard Glueck: "Not that the fact of an offender being feebleminded, or epileptic, or neurotic constitutes, socially considered, mitigating circumstance. On the contrary it aggravates the problem and brings the more clearly into view the inadequacy of an abstract legal procedure for handling what are primarily medical situations. As applied to these serious cases, even the most flexible legal device, such as probation or parole, is incapable, independently, of effecting either re-construction of the individual or protection for the community" (*'Concerning Prisoners'* Mental Hygiene, April 1918).

97. The development of accurate psychological tests and the widening knowledge of mental diseases naturally lead to more accurate diagnosis and an apparent increase in people of a subnormal and unstable mind, just as accurate methods of diagnosis lead to the apparent increase in the prevalence of a disease, which, however, always existed and had only been missed through ignorance. Advancing civilization and wise legislation may largely diminish crime, but once it is recognised that a certain proportion—be it 10 per cent., 30 per cent. or 50 per cent.—of criminals suffer from mental defect or mental disease it is useless to expect reformation, if this cardinal factor be not diagnosed, and the necessary treatment based on it with regard to these men. The recognition of this factor thoroughly explains many of the failures resulting from every of prison and reformatory administration in the world and accounts largely for the confirmed recidivist.

98. One of the most recent authoritative and considered pronouncements on prison and reformatory methods is that of the Prison Association of New York (*'Necessary Next Steps in the Treatment of Delinquents'*—being Chapters from the Seventy-third Annual Report). It is recognised therein that the treatment of prisoners by prison authorities in the past had been based on the assumption that the prisoner would re-act as a normal person would be expected to do. In a considerable number of cases the prisoners did not so re-act. Referring to the work of Dr. Healy at Chicago and Dr. Glueck at Sing Sing the Prison Association say: "the results pointed inexorably

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to the proposition that the most fundamental factor in the treatment of the criminal is the *individual delinquent himself.*" Clearing-house prisons are advocated, and the subsequent drafting of prisoners to special prisons suited to their needs. The necessity of a court clinic advisory to the judge is insisted on ; and a central clinic could serve several city courts.

99. Speaking of the indeterminate sentence which forms so marked a feature in American penology, it is laid down that : "The diagnosis of the scientist is indispensable to a proper decision as to the duration of imprisonment and as to the methods to be pursued in the individual treatment. The psychiatrist should play an important part in the decision as to the eligibility for parole. There should be before the paroling board a full psychological and psychiatric study of the individual. And on parole itself the inmate should not escape the proper attention of the scientific eye.....In short the indeterminate sentence, parole and the psychiatric clinic are component parts of the new treatment of delinquents." (*'Necessary Next Steps in the Treatment of Delinquents.'*)

100. The need for having an ample staff of parole and probation officers sufficiently paid is asserted. Speaking of feeblemindedness the New York Prison Association say : "clearly then, feeblemindedness is not only an important factor in producing crime but its presence in our correctional institutions should be scientifically searched for and the lower grades of feeblemindedness, which cannot exist without serious friction in the institutional administration, should be segregated in special institutions for defective delinquents." Great stress is laid on the period following the release of a prisoner as being the most critical for the prisoner and the most serious for society.

101. The recommendations of the Special Committee of the State Commission of Prisons, New York, are summarised below. It will be seen their conclusions are in the main approved by the Prison Association of New York.

(*i*) Medical clinics such as exist in Boston and Chicago municipal courts should be established, it being practical economy to attempt the proper adjustment of individuals who exhibit abnormal mental conditions when their condition is recoverable or serious delinquent tendencies preventable, rather than to wait until such mental deterioration has taken place or criminal habits become so firmly fixed as to warrant custodial treatment.

(*ii*) Clearing-houses should be opened for (*a*) male felons, and (*b*) female felons ; all admissions to be carefully examined both mentally and physically, given suitable treatment, placed under vocational training and study for such period (3 to 4 months) as will enable the authorities to define the problem the individual presents.

(*iii*) Prisoners should be distributed as follows :—

(*a*) tuberculosis cases to a special prison ; (*b*) those sentenced to Elmira Reformatory to go there if mentally and physically fit ; (*c*) the younger and more normal prisoners to industrial prisons ; (*d*) the older normal prisoners and those found incapable of learning a trade to an agricultural prison ; (*e*) the insane to the state hospital for insane, recoverable types to be treated in a special building in the reception prison ; (*f*) the mental defective, psychopath and epileptic who are found to be incapable, after prolonged and careful study and training, of improvement to such a degree as would justify their release should be sent to an institution suited to their particular needs ; the members of this group who show capacity for reconstruction to such a degree as would justify their release should be retained at the receiving prison for prolonged training as a special group and finally transferred to industrial or agricultural prisons.

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(*iv*) State institutions should be established for the care and treatment of (*a*) male defective delinquents (*b*) female defective delinquents.

(*v*) All adults convicted of offences less than felony, or of felony, if released under suspension of imposition or execution of sentence, should be examined mentally at the discretion of the judge at a clinic attached to the court or a central clinic.

(*vi*) Mental clinics should be established throughout the State and a psychopathic hospital in New York. (These proposals emanate from the State Commission for the feeble minded and the State Hospital Development Commission).

(*vii*) A state board to be formed to direct and control these clinics.

(*viii*) All children brought before the court, charged with delinquency or improper guardianship, to be examined mentally and those found feeble minded to be committed to proper institutions, if in need of institutional care.

The relation of the problems of venereal disease and delinquency is recognised in the report. The necessity for the action recommended is stated in the report of the State Hospital Development Commission: "The really reformable type is becoming in certain reformatories an almost unknown quantity, and the defectives already so large that the question arises whether it would not be better to make one or two of these institutions actually 'defective delinquent' institutions and to continue the others as reformatories with a population that is really reformable."

102. The American theory of crime-production and its treatment appears to be correct. It is logical, for granting the premise the conclusion cannot be denied; that premise is based on scientific evidence which is yearly increasing in volume. The interests of the neglected and the delinquent child are safeguarded much to the benefit of society; equally the special needs of the plastic and impressionable years of adolescence are provided for; and the adult is no longer regarded as a number or unit but studied individually. The system benefits the normal offender, the defective delinquent and the State, and explains to a great degree what has puzzled and disheartened prison official and reformer alike—the inexplicable crime, the failure of reformatory methods and the threatening cloud of recidivism. Wisely and thoroughly put into effect it must be of incalculable moral and economic value to a country. Money will be rightly spent and effort wisely directed; the irreformable individuals recognised, and society protected from their depredations and menace; the mental defective given such instruction as he can absorb and such training as he can assimilate and placed under conditions where he will have a reasonable chance of leading a social life; and most important of all, the full energy and attention of the ordinary institution can be expended on the really reformable criminal. The difficulty of instructing and reforming the mental defective is no new discovery; it is a very old tale—"He that is not wise will not be taught....The inner parts of a fool are like a broken vessel and he will hold no knowledge as long as he liveth....Whoso teacheth a fool is as one that glueth a potsherd....He that telleth a tale to a fool speaketh to one in slumber."

Section XVIII.—Conclusions.

103. Though the principle that the object of a prison is not so much merely to inflict punishment as to reform and correct was evidenced in the work done by Maconachie in Australia, Montesinos in Spain, Obermaier in Bavaria and Crofton in Ireland, yet it only became an established and accepted axiom in penology through the work done at the Elmira Reformatory, New York.

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104. Conditional release in every country but the United States, is hedged about with legal restrictions and police supervision ; in the United States alone is it put into effect in conjunction with the indeterminate sentence. Though actually only in operation in the United States the principle of the indeterminate sentence was accepted—*nem con*—at the International Prison Congress of 1910. Probation, with its resulting benefits, was first introduced (and is still most largely used) in the United States. The necessity of safeguarding the neglected as well as the delinquent child and treating both as wards of the state rather than as criminals is to be found only in the United States. Children's courts owe their inception and development to the same country.

105. It is now proposed to introduce these admirable ideas into India. When, therefore, the practical penologists and experts of a practical nation advise us that there is one hitch in the smooth working of all these admirable devices for reform, would it not be rank folly to ignore the warning ? That difficulty is the presence of the mentally defective, physically defective and mentally abnormal who cannot, or will not, re-act to the stimulus and treatment to which the normal respond. We consider that the scientific methods we have set forth and explained in the preceding pages should be adopted in India ; without them probation, the assignment of children and young adults to schools and reformatories, the classification of prisoners in jails, and conditional release will all be worked on more or less haphazard lines, necessarily leading to disappointment, trouble and waste of money and effort. To introduce methods in use in the United States and to neglect the essential foundation would merely lead to ultimately learning by expensive experience that the American penologists were right.

106. We, therefore, recommend that psychological and psychiatrical methods of examination of delinquents be introduced into India gradually and carefully ; for it was impressed upon us by psychologist, psychiatrist and penologist alike that in this matter particularly haste did not mean speed. The application of these tests by self-trained amateurs, or medical men who had not been through a proper course, would be of little use. As in all scientific matters the investigator must be sure of his ground, and the first necessity is to establish a "psychological norm" for the ordinary school child in India. The survey would probably take two or three years but would be quite as much in the interest of the Education as of the Prison Department. India is not blessed with a superfluity of money : why should it be wasted in attempting to teach the unteachable and to reform the irreformable ? The "norm" of the ordinary illiterate child or adult can be fixed by suitably devised tests. It is, of course, obvious that special tests for India would have to be devised, for those found useful in France, England or the United States might not be applicable to India. Much may, however, be done on a small scale immediately.

107. We, therefore, recommend that medical officers, preferably, in the prison service, who should if possible, have some previous experience with the insane or mentally defective, be sent to the United States to study the subject and the psychological and psychiatrical methods in use there. This should be done without delay for these officers can, on their return to India, not only instruct others but can proceed to formulate test scales for India and decide a "psychological norm" for the ordinary Indian school child and for the illiterate child and adult. The general ability of a literate can be tested by a performance scale which will be equally suitable for the illiterate. In a very few years, judging from the recent stir on this question in England, proper clinics for study will also be available at home. At present beyond doubt the place to which to go for information and study is the United States.

108. We also recommend that where a lunatic asylum is within a short distance of any prison, the superintendent of the asylum should be appointed as consulting alienist to the prison and working on American lines, advise the prison authorities as to the mental condition and classification of prisoners. He should for this work get an allowance of at least Rs. 300 per mensem.

109. We recommend that all prison medical officers should be encouraged in every way to study this subject, and that a course in psychology, mental disease and the application of mental tests should, for officers in the I.M.S., qualify for accelerated promotion.

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110. All delinquent children and young adults should, if feasible, be mentally examined by an expert; this is particularly necessary in children's courts and before placing on probation. Failing examination by an expert they should be carefully examined by some medical officer when, at least the grosser forms of mental defect and deviation and physical disabilities will be recognised. Similarly before the conditional release of any prisoner he should be examined medically and the fact should be recognised that mental defect and abnormality are warning signals and that some prisoners may require permanent custodial care and that such detention—not necessarily under ordinary prison conditions—is an economy to the State and a protection to society. The placing of unsuitable persons on probation must reflect discredit on the system, a discredit really appertaining to defective methods. The conditional release of a prisoner who may commit within a short time a murder, a sexual offence, or a burglary must affect prejudicially all release on parole and possibly lead to a popular outcry against leniency when the true fault lies with the misplaced and misdirected leniency of ignorance.

111. All mentally defective and mentally abnormal prisoners should be sent to a special prison. If a prison is set aside for the truly irreformable or incorrigible recidivist, it will probably be found in the course of time that such a prison has a population consisting mostly of mentally defective and abnormal persons. Special schools and reformatories will be required for mentally defective and mentally unstable children and young adults.

112. We desire to emphasise that it is of the greatest importance that judges and magistrates, and in particular those dealing with children or youthful persons, should realise the fact that many delinquents are mentally defective or abnormal, and also, that the recognition of such defect or abnormality, in no way means that the offender should therefore be considered as a fit subject for release or probation, but most frequently quite the reverse.

Section XIX.—Acknowledgments.

113. We desire to acknowledge our deep obligations to Dr. H. M. Adler, Chicago; Lieutenant-Colonel T. W. Salmon, M.C., United States Army; Drs. Frank L. Christian and John Harding, Elmira Reformatory; Dr. William J. Hickson, Chicago; Dr. Jaudon Ball, Berkeley, California; Mr. August Vollmer, Chief of Police, Berkeley, California; Messrs. F. E. Wade and Allan I. Holloway, Buffalo, N. Y.; to Miss Katherine Bennet Davis who first, at the commencement of our tour in America, impressed on us the amount of time, money and energy wasted in attempting to reform the irreformable; to Dr. O. F. Lewis for his astute advice and skilled criticism on psychological methods in relation to penology; and to Mr. Decatur M. Sawyer, Mr. Amos. Butler and Mr. Joseph P. Byers who presented to us the penologists' view of the value of psychology and psychiatry in the solution of criminal problems.

J. JACKSON.
WALTER BUCHANAN.

Section XX.—Bibliography.

(*a*) Books.

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Crime and Insanity	"	MacMillan and Company, London.
Conduct and its Disorders	"	

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ANNEXURE A TO APPENDIX VII.

THE STANFORD REVISION AND EXTENSION OF THE BINET-SIMON TEST.

Year III (*six tests, two months each*) :

1. Points to parts of body (three of four)—Nose, eyes, mouth, hair.

2. Names familiar objects (three of five)—Key, penny, closed knife, watch, pencil.

3. Pictures, enumeration or better (At least three objects enumerated in one picture).—
   (*a*) Dutch home, (*b*) River scene, (*c*) Post office.

4. Gives sex.

5. Gives last name.

6. Repeats six to seven syllables (one of three) Alt. Repeats three digits (one success in three trials—order correct).

Year IV (*six tests, two months each*) :

1. Compares lines (three trials, no error).

2. Discrimination of forms (Kuhlmann) (not over three errors).

3. Counts four pennies (no error).

4. Copies square (pencil—one of three).

5. Comprehension, first degree (two of three) (Stanford addition).

   "What must you do" : (*a*) "When you are sleepy ?" (*b*) "Cold ?" (*c*) "Hungry ?"

6. Repeats four digits (one of three—order correct) (Stanford addition).

Alt. Repeats twelve to thirteen syllables (one of three absolutely correct, or two with one error each).

Year V (*six tests, two months each*) :

1. Comparison of weights (two of three)—three to fifteen ; fifteen to three ; three to fifteen.

2. Colors (no error)—Red ; yellow ; blue ; green.

3. Aesthetic comparison (no error).

4. Definitions, use or better (four of six)—Chair ; horse ; fork ; doll ; pencil ; table.

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5. Patience, or divided rectangle (two of three trials—one minute each).

6. Three commissions (no error—order correct).

Alt. Age.

Year VI (*six tests, two months each*) :

1. Right and left (no error)—Right hand ; left ear ; right eye.

2. Mutilated pictures (three of four correct).

3. Counts thirteen pennies (one of two trials, without error).

4. Comprehension, second degree (two of three)—"What's the thing for you to do" :

(*a*) "If it is raining when you start to school ?"

(*c*) "If you are going some place and miss your car ?"

(*b*) "If you find that your house is on fire ?"

5. Coins (three of four)—Nickel ; penny ; quarter ; dime.

6. Repeats sixteen to eighteen syllables (one of three absolutely correct, or two with one error each).

Alt. Morning or afternoon.

Year VII (*six tests, two months each*) :

1. Fingers (one error)—Right; left; both.

2. Pictures, description or better. (Over half of performance description) :—Dutch home ; river scene ; post-office.

3. Repeats five digits (one of three—order correct).

4. Ties bow-knot (model shown—one minute) (Stanford addition).

5. Gives differences (two of three).—Fly and butterfly ; stone and egg ; wood and glass.

6. Copies diamond (Pen—two of three).

Alt. 1. Names days of week (order correct, two of three checks correct).

Alt. 2. Repeats three digits backwards (one of three).

Year VIII (*six tests, two months each*) :

1. Ball and field (inferior plan or better) (Stanford addition).

2. Counts twenty to one (forty seconds, one error allowed).

3. Comprehension, third degree (two of three). "What's the thing for you to do" :

(*a*) "When you have broken something which belongs to some one else ?"

Appendix VII, Annexure A.—The Stanford Revision and Extension of the Binet-Simon Test.

(*b*) "When you are on your way to school and notice that you are in danger of being tardy?"

(*c*) "If a playmate hits you without meaning to do it?"

4. Gives similarities, two things (two of four) (Stanford addition). Wood and coal; apple and peach; iron and silver; ship and automobile.

5. Definitions superior to use (two of four). Balloon; tiger; football; soldier.

6. Vocabulary, twenty words (Stanford addition. For list of words used, see record booklet).

Alt. 1. First six coins (no error).

Alt. 2. Dictation ("See the little boy"—easily legible—Pen, one minute).

Year IX (*six tests, two months each*):

1. Date (allow error of three days in *c*, no error in *a*, *b*, or *d*,)—(*a*) day of week; (*b*) month; (*c*) day of month; (*d*) year.

2. Weights (three, six, nine, twelve, fifteen—procedure not illustrated—two of three).

3. Makes change (two of three—no coins, paper, or pencil)—Ten to four; fifteen to twelve; twenty-five to four.

4. Repeats four digits backwards (one of three) (Stanford addition).

5. Three words (two of three—oral. One sentence or not over two co-ordinate clauses)—Boy, river, ball; work, money, men; desert, rivers, lakes.

6. Rhymes (three rhymes for two of three words—one minute for each part—Day; mill; spring.

Alt. 1. Months (fifteen seconds and one error in naming—two checks of three correct).

Alt. 2. Stamps, gives total value (second trial if individual values are known).

Year X (*six tests, two months each*):

1. Vocabulary, Thirty words (Stanford addition).

2. Absurdities (four of five. Warn. Spontaneous correction allowed. Four of Binet's, one Stanford).

3. Designs (one correct, one half correct. Expose ten seconds).

4. Reading and report (eight memories, thirty-five seconds and two mistakes in reading). (Binet's selection).

5. Comprehension, fourth degree (two of three. Question may be repeated)—

(*a*) "What ought you to say when some one asks your opinion about a person you don't know very well?"

Appendix VII, Annexure A.—The Stanford Revision and Extension of the Binet-Simon Test.

(*b*) "What ought you to do before undertaking (beginning) something very important?"

(*c*) "Why should we judge a person more by his actions than by his words?"

6. Names sixty words (illustrate with clouds, dog, chair, happy).

Alt. 1. Repeats six digits (one of two—order correct). (Stanford addition).

Alt. 2. Repeats twenty to twenty-two syllables (one of three correct, or two with one error each).

Alt. 3. Form board (Healy-Fernald puzzle A—three times in five minutes)

Year XII (*eight tests, three months each*) :

Alt. 1. Repeats six digits (one of two—order correct). (Stanford addition).

2. Abstract words (three of five)—Pity ; revenge ; charity ; envy ; justice.

3. Ball and field (superior plan). (Stanford addition).

4. Dissected sentences (two of three—one minute each).

5. Fables (score four ; *i.e.*, two correct or the equivalent in half credits) (Stanford addition)—Hercules and Wagoner ; maid and eggs ; fox and crow ; farmer and stork ; miller, son, and donkey.

6. Repeats five digits backwards (one of three) (Stanford addition).

7. Pictures, interpretation (three of four. "Explain this picture.")—Dutch home ; river scene ; post-office ; colonial home.

8. Gives similarities, three things (three of five) (Stanford addition)—Snake, cow, sparrow ; book, teacher, newspaper ; wool, cotton, leather ; knife blade, penny, piece of wire ; rose, potato, tree.

Year XIV (*six tests, four months each*) :

1. Vocabulary, fifty words (Stanford addition).

2. Induction test (gets rule by sixth folding). Stanford addition).

3. President and king (power, accession, tenure—two of three).

4. Problems of fact (two of three) (Binet's two, and one Stanford addition).

5. Arithmetical reasoning. (One minute each, two of three) (Adapted from Bonser).

6. Clock (two of three. Error must not exceed three or four minutes)—6 : 22. 8 : 10. 2 : 46.

Alt. Repeats seven digits (one of two order correct).

Average adult. (*six tests, five months each*) :

1. Vocabulary, sixty-five words (Stanford addition).

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2. Interpretation of fables (score eight) (Stanford addition).

3. Difference between abstract words (three real contrasts out of four)—Laziness and idleness ; evolution and revolution ; poverty and misery ; character and reputation.

4. Problem of the enclosed boxes (three of four). (Stanford addition).

5. Repeats six digits backwards (one of three). (Stanford addition).

6. Code, writes "come quickly." (Two errors, omission of dot counts half error. Illustrate with "war" and "spy.") (From Healy and Fernald).

Alt. 1. Repeats twenty-eight syllables (one of two absolutely correct).

Alt. 2. Comprehension of physical relations (two of three) (Stanford addition)—Path of cannon ball; weight of fish in water; hitting distant mark.

"Superior adult," (six tests, six months each) :

1. Vocabulary, seventy-five words (Stanford addition).

2. Binet's paper-cutting test. (Draws, folds, and locates holes).

3. Repeats eight digits (one of three, order correct). (Stanford addition).

4. Repeats thought of passage heard (one of two). (Binet's and Wissler's selections adapted).

5. Repeats seven digits backwards (one of three) (Stanford addition).

6. Ingenuity test (two of three, five minutes each) (Stanford addition).

Houghton Mifflin Company, New York, will supply all the printed material needed in the tests, including the lines for the forms for IV, 2, the four pictures for "enumeration," "description," and "interpretation," the pictures for V, 3 and VI, 2, the colors, designs for X, 3, the Code for Average Adult 6, and score cards for square, diamond, designs, and ball-and-field. Price 50 cents *net*. Post paid. This is all the material required for the use of the Stanford revision, except the five weights for IX, 2, and V, I, and the Healy-Fernald Construction Puzzle for X. These may be purchased of C. H. Stoelting and Company, 125 North Green Street, Chicago.

ANNEXURE B TO APPENDIX VII.

DR. WILLIAM HEALY'S TESTS.

Test I: *Picture form board.*—Beginning at about seven years any mentally normal child should be able to do this test in its entirely—many two years younger do it. The time naturally varies a great deal. A bright 5th grade group, ranging about 11 years, averaged 1 min. 43 secs; a kindergarten group averaged 3 min. 16 secs. There is purposely a great deal of difference in the difficulty of working with the triangles and putting the other pieces in place. Of the normal kindergarten group 14 per cent. failed on these triangles, none on the other pieces. The triangles are put in place by most children of 12 or under by a trial and error method; very few plan the approach to the problem. The other pieces, however, most often are at once apperceived in their true relationship—9 out of 27 kindergarten children put them in place without error. As we have said in another place, this test is given to interest and to get a first general measure of the individual and is not suited for close methods of scoring.

Test II: *Special picture puzzle.*—Even at kindergarten age normal children are able to do this correctly, though usually with many trials. Average time, then, 3 min. 15 secs. At 10 years, 33 per cent. did the test without any errors, although 18 per cent. still made from 3 to 10 errors. The time then averaged 2 min. 22 secs. We have latterly given up the test as too simple for the ages we work with. Our Completion test, *vide infra,* takes its place.

Test III: *Construction test A.*—This is one of our more important tests. No normal person over 8 or 9 years should fail to do it in 5 min. At 12 years we find great variation in the time, showing very distinct differences in ability. Some grasp and plan the task very readily, performing it in 12 to 15 secs.; nearly all of those normal mentally getting it done in 2 min. To be considered as done well it should be done within these limits, and without replacing pieces in obviously impossible positions. Of course a planned method is better than trial and error, but some get through with it rapidly by quickly perceiving the possibilities of the latter. The number of moves used depends, of course, on the method. Estimation of the method is certainly more important than the time, within the above limits. The least possible number of moves is 5. The private school group all succeeded from 2nd grade up, with a gradual diminution of the average time, which in the 2nd. grade was 2 min. 7 secs.; 33 per cent. failed in the 1st grade, even with 10 min. trial, and 23 per cent. in the 2nd grade. Beginning wih the 4th grade 50 per cent. did it by planning. None in this school did any better than many of the best in the group of offenders.

Test IV: *Construction test B.*—This is similar in idea to the preceding test, but for most is much harder. It should be done in 10 min. by all normal persons from 12 years on. Most of our normal 12-year-old offenders do it from 1 to 3 min., but even when older persons exceed such time limits it can hardly be maintained as evidence of low ability. Again in this it is the method that is most valuable to note—particularly the attitude of planning, as put over against taking the chances on trial and error, and particularly as against the repetition of impossibilities. This, namely, the ability to profit by experience, is registered with certainty in the number of moves made. Errors to the extent of 10 or 15 indicate little, but beyond that there is carelessness or actual inability to think out the situation. There are 11 pieces to put in—thus normally the task should be done in at least 26 moves. Occasionally a slap-dash method done by a bright person involves more moves, but only seldom. It should be remembered that a planful attack may be very slow. The private school group made no failures after the 4th grade. The average time then was 2 min. 10 secs. and that was not decreased in two higher grades. In fact, at 11 years the performance was as good as it was for two years later. This type of result, both here and in the preceding

Appendix VII, Annexure B.—Dr. William Healy's Tests.

test, is characteristic. We see our brighter young offenders doing these two tests quite as well as any of the private school group, or as well as adults. These two tests are more definitely ability than age tests.

Test V: *Puzzle box.*—Nearly all of our offenders above 12 years who have ordinary ability can open this box, well inside of 10 min., but very occasionally such a one may fail. Since a considerable time may be rationally spent in studying the situation involved in the test, the time, unless very rapid or very slow, hardly counts for much. There is every invitation to plan the task, and of course with increasing years there is the tendency to do so. It is difficult to say how many errors are allowable—it is easier to judge of the method by observing whether the correct steps are interspersed with errors, which should not be. Upwards of 2 or 3 errors before doing step one makes the probability quite against planfulness. Very often there is a combination of trials with some later planning. Miss Schmitt estimated that 39 per cent. of our offenders between 12 and 16 years, who showed no school retardation, did the test by planning, but 11 per cent. failed entirely. It is not uncommon, however, for a girl to take very little interest in this test, usually so inviting for a boy. The private school group made no failures above the 4th grade. Average time was steadily lowered to 6th grade, the highest worked with, and then it was 3 min. 54 secs. Planning then was done by 70 per cent.

Test VI : *Testimony from a picture.*—The interpretation of this Test lies largely along common-sense lines. Beginning with 8 years, bright persons can give a good account of the picture, bringing out most of the main points on cross-questioning, if not on free recital. An ordinary good account as heard from our offenders is to give 12 or 15 items on free recital, and perhaps 8 or 10 more on inquiry. More than 2 or 3 erroneous details is a bad record, as is also to accept more than 2 suggestions. General interpretations of absent or excessive suggestibility, and of memory failures are obvious. So, too, are the extraordinarily straightforward or dramatic accounts sometimes registered. There is the greatest variation in ability to testify and this shows itself early—many a bright child of 10 has correct and vivid pictures, not excelled by others of greater age.

Test VII: *Visual memory of geometrical figures.*—This should be done correctly by all from 10 years who have normal visual memory, as Binet states, but great variations in ability to draw well are, of course, noticeable.

Test VIII: *Learning arbitrary associations.*—This test is done exceedingly well by even young children who have normal ability. Beginning certainly with the 10th year we should expect, even among our offenders who are normal, the task to be done with at the most 1 or 2 errors. In the private school group 55 per cent. of the 1st grade children did it without any error, 70 per cent. in 2nd grade, 80 per cent. in 3rd grade, and 86 per cent. in 4th grade.

Test IX: *Cross line test A.*—This is done by nearly all normal persons correctly, either at first or second trial, by the age of 10. It is an easy task for most, even at the first attempt. In the private school group there were no total failures above the 2nd grade—a total failure meaning four trials without success. In the 3rd grade 90 per cent. get it at first trial, and at the 5th grade all of them. Beginning at the 6th grade all of our offenders got it right at first trial.

Test X: *Cross line test B.*—This is on the same order as the preceding test, but is more difficult. It should be done by normal persons above 12 years, certainly on the second trial. Each trial follows demonstration of ability to draw the whole figure from memory—this is the same as in giving Test IX. The private school pupils all did it at first trial in the 6th grade ; 94 per cent. at first or second trial in 5th grade; 84 per cent. in the 4th grade. No final failure (after the fourth trial) was first noted in 4th grade. No final failure among our offenders, was first noted at 6th grade. Between the ages of 11 and 15, judging mental ability normal by absence of school retardation, only 4 per cent. of our offenders made a total failure, whereas 41 per cent. of those who were retarded 2 years or more totally failed. This is a test which the adult type of mind finds much easier—as differentiating the factory of mental analysis from mere memory.

Appendix VII, Annexure B.—Dr. William Healy's Tests.

Test XI: *Code test.*—This is one of our most difficult tests, requiring good powers of concentration and analysis. Many persons who prove themselves able to cope with the world in the ordinary simpler walks of life do not accomplish this test with less than 3 or 4 errors. To do the task without errors shows some good mental powers. The average numbers of errors was 3 at 6th grade in the private school group. It is probably fair to say that the person of ordinary ability above 14 years in our offending group should do this test with at most 4 errors, out of the possible 11. More errors are made by those who come in our group of poor in ability, though not distinctly subnormal; and fewer errors by those of marked good ability. In working with offenders on such a test which requires prolonged effort and does not long appeal to the mentally lethargic, whether temporary or chronic cases of mental debility, the interpretation of partial failure is not always obvious, and needs the critical comparison of results on other tests.

Test XII: *Visual verbal memory.*—The passage consists of 20 details which follow in definite logical sequence. Beginning with 3rd grade pupils—ages 9 or 10—three is much more difference between types of individual response to this test, than between response by ages. At 10 years the results average nearly as good as for later years. In the private school group 86 per cent. in the 5th grade gave the sequence quite correctly, and 72 per cent. gave from 15 to 19 details while 13 per cent. gave the entire 20 details. The latter result, however, is peculiarly high, for only 4 per cent. of the 6th grade did as well, and none in the 4th grade. Our offenders above 12 years of age and of ordinary ability nearly always give correctly the general logical sequence, and at least 12 of the details are recalled with accuracy.

Test XIII: *Auditory verbal memory.*—In this test there are 12 details. Every one knows the facility with which bright young children learn a passage by ear, so we are not surprised to find in the private school group 88 per cent. in the 2nd grade remembered at least 9 details with much accuracy of sequence. Below that, the sequence was very defective. At the 4th grade all got 9 details or better, 25 per cent. got all the details, and the sequence was almost perfect. In our group of offenders of ordinary ability above 10 years we should expect at least 9 items remembered in logical sequence.

Test XIV: *Instruction box.*—This test should be done correctly at the second trial by all above 14 years, unless there is distinct misunderstanding of the figures on the dial, and even then there is a fault of perception. Failure to open the box after being shown twice, would make us question very carefully whether the person should be recommended at all for office or shop work.

Test XV: *Antonym or opposites test.*—Interpretation on this test is only fair where there has been a normal chance of becoming acquainted with the English language. Under such conditions it becomes a very interesting, and occasionally important measure of the rapidity of associations. For the ages above 10 years there is no marked increase in ability to quickly respond. We expect in our offenders of ordinary ability, response in average time of at least 2 secs. and with certainly not more than 2 or 3 errors. The private school group at 4th grade gave average time 2 secs., and 61 per cent. no errors; in the 6th grade, time 1.6 secs., and 87 per cent. no errors.

Test XVI:*Motor co-ordination test.*—Above 12 years old we expect from individuals of ordinary ability at least 60 squares tapped in 30 secs. with not more than 3 or 4 errors. Various physical conditions, of course, prevent good performance.

Tests XVII, XVIII, XIX: *Writing, arithmetic and reading.*—The interpretation of these when schooling has been good is obvious; the performance should be up to grade. Unfortunately, it is very difficult to say that schooling has been suited to the needs of some pupils, especially those with specialized defects of sensory or intellectual faculties.

Test XX : *Checkers.*—This test has been rarely given, but when a game is played with care and foresight it is a sure indication of certain very mental qualities—powers of analysis and foresight.

Appendix VII, Annexure B.—Dr. William Healy's Tests.

Test XXI: *Reaction to moral questions.*—This test, rather infrequently given by us, may show both some indication of powers of comprehension of a situation verbally presented, and powers to analyse an ethical problem. The comprehension and analysis, irrespective of the exact solution offered, is most important. From our group of offenders above 12 years, ordinary in ability, we get reasonable answers, with some show of analysis of the situation as correctly represented in their own mind.

Test XXII: *Information.*—The correct interpretation of answers to the questions given is obviously dependent on environmental conditions as well as on mental ability, but a well-rounded inquiry in either case serves as an indication of absence or presence of those normal, healthy, mental interests and opportunities which are so important as a preventive of criminalistic ideas and imageries.

Test XXIII: *Pictorial completion test.*—At 11 years this test should be readily accomplished with not more than 1 or 2 final errors, and certainly not more than 1 illogical error. Most of our group of normal offenders by 11 years do better than this, and even some at 10 years do as well. With age there seems to be no marked average increase of ability. The median or average performance for all in the group of those ordinary in ability above 10 years, is 1 final error and no illogical error. The private school group does just about the same—at 11 years the mark is set which, for at least two ensuing years, is not passed. In this school, however, a good many below 11 years are able to do the test without error, great variations occurring. The median error above 10 years is the same as for the offenders. The average time is about 3 secs. and this does not vary greatly for ages above 11 years. The erratic performance often seen in psychosis cases has seemed very notable; indeed, hardly any other test has proved so indicative of the aberrational tendencies, but, no doubt, some of the really insane could perform the test readily. We have seen no feebleminded person, as yet, able to do it without error, although, on account of the variance of special abilities which we so much insist on, two or three have come within limits we prescribe as normal. Looking over the brightest subjects at Vineland we found a young man of 21—Binet age of 10—said to be perhaps the nearest to normal of any boy in the institution, who accomplished the test with only one logical error, but he took 16 min. for the task. Then one of the brighter girls, 16 years old,—Binet age 11—made only one logical error, and did it in 3 min. 30 secs. Both of these came very near to appereciving all the relationships depicted in the test; all the others of even this brightest group fell much behind these performances, and none of our feebleminded offenders has done so well.

For convenience to the reader we may mention that C. H. Stoeling Co., 125 North Green Street, Chicago, make much of the psychological apparatus used in the United States, and deal in the material used in the tests.

ANNEXURE C TO APPENDIX VII.

THE UNITED STATES ARMY TESTS.

To bring home to the incredulous the value of the Binet-Simon and other similar psychological mental tests in evaluating the general intelligence, a brief description of what these mental tests were meant to elicit and what they did actually achieve in the army of the United States of America is given below:—

(2). These tests provided an immediate and reasonably dependable classification of men according to general intelligence. They therefore served specific purposes:—

(*i*) to discover men whose superior intelligence suggests their consideration for advancement;

(*ii*) to select and assign to development battalions of men so inferior mentally as to be suited only for selected assignments;

(*iii*) to form organisations of uniform mental strength if so desired;

(*iv*) to form organizations of superior mental strength where such superiority is demanded by the nature of the work to be performed;

(*v*) to select suitable men for various army duties or for special training in colleges or technical schools;

(*vi*) to form training groups within the regiment or battery so that each man may receive instruction and drill according to his ability to profit thereby;

(*vii*) to recognise early the mentally slow as contrasted with the stubborn and disobedient; and

(*viii*) to discover men whose low grade of intelligence renders them either a burden or a menace to the service.

(3) The tests used are the *Alpha* group test for literates, and the *Beta* group test for illiterates or foreigners. Individual tests, used if necessary, were the Yerkes Bridges point scale, the Stanford-Binet scale, and the Performance scale.

(4) Men were rated as follows:—

'A'	Very superior intelligence,	about 4 per cent. to 5 per cent.
'B'	Superior intelligence,	8 per cent. to 10 per cent.
'C *plus*'	High average intelligence,	15 per cent. to 18 per cent.
'C'	Average intelligence,	25 per cent.
'C *minus*'	Low average intelligence,	20 per cent.
	Inferior intelligence,	15 per cent.
'D *minus*' / 'E'	Very inferior intelligence—mostly below the mental age of ten years.	

(5) These mental tests did not replace other methods of judging a man's value to the service, they only measured up one very important element, general intelligence. But in the long run

Appendix VII, Annexure C.—The United States Army Tests.

these other qualities, loyalty, bravery, power to command, grit and the spirit to carry on and never be down-hearted are more likely to be found in men of high general ability than among those intellectually inferior.

(6) Commissioned officer material was found chiefly in 'A' and 'B' groups; though of course a person of very high intelligence indeed may be useless as an officer or soldier. It is hardly justifiable to go below 'C *plus*' in selecting non-commissioned officers, and never below 'C'. It is pointed out that a man's value to the service should not be judged by his intelligence alone but that the intelligence-rating is the most rapid and efficient means of sorting out men. The importance of giving each unit its proportion of superior, average and inferior men is pointed out: if the matter is left to chance there may be a very weak link in the chain.

(7) It has been thoroughly demonstrated that the intelligence ratings are useful in indicating a man's probable value to the service. 'A,' 'B' and 'C *plus*' furnish the great bulk of non-commissioned officers and officers; 'C *minus*', 'D' and 'D *minus*' hardly any. Of those sent to officers' training schools above 'C *minus*' only 8.65 per cent. were eliminated; below 'C *plus*' 58.27 per cent. Of those sent to non-commissioned officers' training schools above 'C' 18.40 per cent. were eliminated; of those below 'C' 62.41 per cent. Classes 'D,' 'D *minus*' and 'E' were found almost altogether among the disciplinary cases, the men of low military value, the poorest sort of private and the practically unteachable.

(8) The correlation between the grading of men on their value as soldiers by an officer and their grading by the mental test was distinctly high. Commanding officers of the different organizations representing various arms in a camp were asked to designate (*i*) the most efficient men, (*ii*) the average men, and (*iii*) the men so inferior that they were "barely able" to perform their duties. After the officers' classification had been made the men were given the usual psychological test with the following result:—(*a*) the average score of the "best" group was approximately twice as high as the average score of the "poorest" group; (*b*) of men testing below 'C *minus*' 70 per cent. were "poorest" and only 4.4 per cent. best; (*c*) of men testing above 'C *plus*", 15 per cent. were classed "poorest" and 55.5 per cent. as "best"; (*d*) the man who tests above 'C *plus*' is fourteen times as likely to be classed "best" as the man who tests below 'C *minus*'; and (e) the percentage classed as "best" as the man who increased steadily from 0 per cent. in 'D *minus*' to 57.7 per cent. in 'A', while the percentage classed as "poorest" decreased steadily from 80 per cent. in 'D *minus*' to 11.5 per cent. in 'A'. The American authorities may well say: "Considering that low military value may be caused by many things besides inferior intelligence, the above findings are very significant."

(9) In a regular regiment of 765 men, officers were asked to rate the men as 1, 2, 3, 4 and 5 according to "practical soldier value". The men were then tested psychologically with the following result:—(*a*) of 76 men classed 'A' or 'B', none rated as "5" and only 9 were rated "3" and "4"; (*b*) of 238 'D' and 'D *minus*' men, only one was rated "1", and only 7 were rated "2"; (*c*) psychological ratings and ratings of company commanders were identical in 49.5 per cent. of all cases. There was agreement within one step in 88.4 per cent. of all cases and disagreement of more than two steps in only 0.7 per cent. of cases.

(10) Sixty company commanders were asked to name the "ten best" and "ten poorest" privates. Of the "poorest" 57.5 per cent. graded 'D *minus*' or 'D' and less than 3 per cent. 'A' and 'B'. Again as the American authorities say: "Intelligence seems to be the most important single factor in determining a soldier's value to the service". Of 221 inapt men in a negro pioneer regiment referred by their commanding officer for special psychological examination nearly half (109) were found to have a mental age of 7 years or less. In a unit about to go overseas 306 men were designated by their commanding officers as unfit for overseas service. These men were referred for psychological examination and 90 per cent. were found to be mentally 10 years or lower, and 80 per cent nine years or lower.

(11) Experience has shown that few men classed as 'D' or 'D *minus*' could be safely used in field artillery, machine-gun battalions or field signal battalions. The proportion of 'A' men is remarkably high in engineer officers, and taking various officer groups the 'A' grade varied from 8 per cent. to 79 per cent.; 'A' and 'B' grades combined from 52 per cent. to 96 per cent., and the proportion below 'B' from 4 per cent. to 48 per cent., and the most of these were 'C *plus*', very few classing below this.

APPENDIX VIII.

NOTE ON INSANITY AND MENTAL DEFICIENCY.

(By Sir James H. DuBoulay, K.C.I.E., C.S.I., I.C.S.)

The association of mental deficiency and minor degrees of mental derangement with criminal tendencies.

1. The evidence seems to me to be overwhelming that just as there are degrees of mental deficiency not amounting to idiocy, so there are degrees of mental derangement not amounting to insanity: and that such deficiency or derangement is frequently associated with criminal tendencies. It is a reasonable conclusion that a criminal afflicted in either of these ways will not respond to deterrent or reformative influences in the same manner as a normal man. Experience in America shows that this conclusion is sound, and in England, where the study of the subject is not so advanced, experience is pointing in the same direction. In India study of the subject can hardly be said to have begun. It would be rash to hazard a guess as to the extent to which mental deficiency or mental derangement exists among either the general or the criminal population, but it is beyond doubt that they exist: and it is in my judgment established that where they exist in association with crime they render the criminal more difficult to deter or reform, they may render him more difficult to manage, and they make him a greater danger to society.

Probation as applied to these classes.

2. In Chapter XIII (paragraph 436) we have stated that it is useless to place on probation persons of defective intellect: I think it is clear that the same remark applies to persons of deranged intellect, even though the derangement may not amount to certifiable insanity.

Conditional release.

3. In Chapter XIV (paragraph 454) we have stated that the best available medical opinion regarding a prisoner's mental condition should be obtained before he is conditionally released. Here too both mental derangement and mental deficiency, if associated with crime, demand caution before a person so afflicted is let loose upon society.

Their treatment in prison.

4. In prison it is sometimes found that a man will not or cannot adjust himself to his environment. He is constantly in trouble and punishment has no effect: his example may even effect the general discipline of the jail. Here again is a case where mental examination may disclose some defect or derangement indicating that the prisoner is not a suitable subject for the ordinary prison routine: the interests of society demand that he should be kept in confinement, but the interests of prison administration and of the prisoner himself require that he should be in some other place than in an ordinary prison and among ordinary prisoners; and similar considerations apply *mutatis mutandis* to the inmates of Special Institutions for adolescents and of reformatory schools for juveniles.

Possible dangers.

5. The sphere of mental deficiency and of minor degrees of mental derangement in their relation to crime is limited to the three questions above referred to—probation, parole and treatment in confinement. It is unnecessary to enlarge upon the dangers that would attach to a doctrine that

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a criminal could demand acquittal and release upon proof of some degree of mental deficiency or mental derangement short of insanity : and the most advanced opinion in America holds on the contrary that these afflictions when associated with criminal tendencies indicate rather the need for indefinite segregation, than any justification for immediate or early release. It is, however, desirable to consider briefly whether any danger to society lies hid in the propositions that a man should be mentally examined before he is placed on probation or parole, or that he should be relegated to a special prison if after conviction mental examination suggests that course.

No danger in connection with probation.

6. In the case of probation the suggestion is that the court should not place a man on probation unless medical opinion has been taken. That opinion must be in one of three senses. It must be either that the culprit may safely be placed on probation, or that he may be placed on probation on certain conditions, or that he is not fit to be placed on probation. *Ex hypothesi* the court has only asked for an opinion because the other circumstances of the offence seem to recommend that treatment : and however worthless the opinion given may be, it can hardly be urged that it could create a danger to society, when so far as it disagrees with the preconceived ideas of the court it must necessarily advise greater caution in dealing with the offender.

No danger in connection with conditional release.

7. Similarly in the matter of conditional release, if medical examination discloses no mental deficiency or derangement, the advisory board will deal with a particular case on its other merits. A medical opinion can only serve as a check upon the admission to parole of an individual who in the judgment of a layman otherwise appears to be a suitable subject for this treatment.

Little danger in connection with special prison treatment.

8. There remains the case of the prisoner in jail who is giving trouble, or in some other way indicates that a mental examination is desirable. It may be urged that inasmuch as the diagnosis of mental defect or derangement will probably lead to separate or milder treatment, there will be a strong temptation to malinger. This temptation already exists with regard to physical ailments, and we have to trust the medical profession to deal with it. We must equally trust the profession in respect of mental ailments ; and so long as it is recognised that the diagnosis must in no circumstances lead to release, but merely to confinement in somewhat different circumstances the danger to society is non-existent.

The necessity for more light on the subject in India.

9. The question whether a man is suffering from mental deficiency or derangement lies within the region of medical science,—a science which is constantly making progress, and not infrequently finding out its own mistakes. It would be as absurd for a layman to pronounce an opinion upon psychiatry as it would be for him to criticise the means used for the diagnosis of tuberculosis. He must rest his confidence upon the medical profession and rely upon it to adopt such methods as the light of existing knowledge shows to be best. I am not competent to discuss the various causes of mental deficiency and mental derangement, their manifestations, symptoms or their diagnosis. These matters have been dealt with by the medical members of the Committee. I cordially consur with them that more light is necessary on the subject in India, and I think that selected medical officers, in the prison service, with, if possible, some previous experience with the insane or mentally defective, should be sent to study the subject not only in the United States but in England. Similarly I agree with their recommendation that all prison medical officers should be encouraged to study the subject.

A consulting alienist to the Prison Department.

10. Further I agree that it is extremely desirable that the services of a specialist should be available to the prison authorities for the mental examination of prisoners, and I would appoint, with an allowance as proposed, the superintendent of either the principal or the most conveniently situated lunatic asylum of each Province to be consulting alienist to the prisons of that Province. Difficult

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cases would be transferred to the nearest jail for the purposes of examination; and when the diagnosis found mental defect or abnormality of so marked a character that the case was unsuitable for ordinary prison régime, the prisoner would be relegated to a special prison or portion of a prison set apart for the purpose, cognate measures being adopted so far as possible for juveniles and adolescents.

Mental examination before conditional release.

11. I agree that prisoners should be mentally examined before conditional release, but I am not prepared in present circumstances to lay down that persons whom a court proposes to place on probation must invariably be similarly examined before that course is adopted.

Mental examination before probation.

12. The examination of prisoners under sentence and before conditional release will take place in circumstances where the services of a highly qualified medical officer will be available, but it must be recognised that in the case of offenders proposed to be placed on probation the mental examination would for the present and, it may be feared, for a long time to come have to be carried out by medical men of inferior qualifications, who have made no special study of the subject. They will, it is true, be more competent than the magistracy to recognise "the grosser forms of mental defect and deviation and physical disabilities," and as I have pointed out, no danger to society can result from the opinions they may give; but while I would encourage magistrates to seek medical opinion before dealing with a child offender and before placing a person on probation in all cases when they have any doubt as to his mental condition, I hesitate to go so far as my medical colleagues in their recommendation: "All delinquent children and young adults should be, if feasible, mentally examined by an expert: this is particularly necessary in children's courts and before placing on probation. Failing examination by an expert they should be carefully examined by some medical officer." It will be long before experts are available, and I fear that until the light is more widely diffused in India such examinations will spellimerely waste of time to the assistant surgeons and sub-assistant surgeons, and delay in the disposal of criminal cases. It is true that in the absence of expert mental examination a certain number of cases will be unwisely placed on probation, but it must be remembered that, if our recommendations (in Chapter XIII, paragraph 433) are accepted, this course can only be adopted when no previous conviction is proved; this is a sufficient safeguard against the probation system being reduced to a fiasco by its improper and repeated application to persons suffering from mental deficiency or derangement.

Legislation at present inadvisable.

13. I do not think that it is desirable to introduce at present legislation on the lines of the English Mental Deficiency Act. Such rapid advances are being made in the study of psychiatry, and the attention given to the subject by the medical profession in America and Europe is increasing so fast that I think it would be unwise to stereotype the Indian law until investigations are somewhat further advanced and conclusions more widely accepted than now. Even when that time comes it will be open to question how far it is desirable to give to the courts the power to relegate persons to special institutions unless and until they have at their disposal the services of real experts. India is inadequately provided with men qualified to diagnose her physical ailments and the day is distant when it may be hoped that men possessed of the requisite skill for the diagnosis of mental maladies will be available in every district.

J. H. Du BOULAY.

APPENDIX IX.

NOTE ON THE TREATMENT OF THE CHILD-OFFENDER AND THE ADOLESCENT OFFENDER IN GREAT BRITAIN AND THE UNITED STATES.

(Referred to in paragraphs 362 and 413 of the Report.)

Definition.

1. For the purposes of this note the term Child-offender includes boys and girls under the age of sixteen and the term Adolescent offender includes boys and girls who have attained the age of sixteen but who have not attained the age of twenty-one.

Section I.—The Child-offender.

(A). Great Britain.

English statistics relating to Child-offenders.

2. Section 131 of the English Children Act, 1908, lays down that for the purposes of that Act the word "child" means some one under the age of fourteen and the words "young person" mean those who have attained fourteen but have not attained sixteen years of age. In the following table fairly complete information is given regarding the disposal of children and young persons who came before the courts in England and Wales during the eight years ending 1917. Unfortunately no similar statistics are available for any year earlier than 1910, and the figures for 1918 have not yet been published. A considerable number of boys and girls were also dealt with by the ordinary courts because they were tried jointly with adults or were supposed to be aged above sixteen. But full information as to the method in which they were disposed of is not available.

Number of children and young persons under the age of sixteen charged with offences and result of proceedings—England and Wales.

Year.	Number proceeded against.			Cases not dealt with summarily.		Charge withdrawn or dismissed.	Cases dealt with summarily.														
							Charge proved; order made without conviction.							Convicted.							
	Males.	Females.	Total.	Charge withdrawn or dismissed.	Committed for trial.		Dismissal.	Recognizances.	Probation.	Industrial School.	Custody of relative.	Institution for defectives.	Total.	Imprisonment.	Place of detention.	Police cells.	Reformatory school.	Whipping.	Fine.	Recognizances.	Otherwise disposed of.	Total.
	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.								
1910 ...	31,699	1,899	33,598	223	57	5,095	7,912	2,576	3,568	1,044	35	...	15,135	90	35	...	1,143	1,562	10,124	77	47	13,078
1911 ...	31,307	1,670	32,977	232	72	4,784	7,957	2,187	3,454	1,134	13	1	14,765	67	45	...	1,047	1,579	10,226	96	64	13,124
1912 ...	36,216	2,135	38,351	207	62	5,215	9,258	2,620	4,537	1,312	10	...	17,767	112	67	...	1,198	1,983	11,549	88	103	15,100
1913 ...	35,463	2,057	37,520	250	59	4,358	9,529	2,447	4,465	1,200	7	...	17,648	52	32	...	1,082	2,079	11,805	74	90	15,214
1914 ...	35,080	1,849	36,929	261	38	4,400	9,167	2,370	4,496	1,300	13	1	17,256	30	54	...	1,178	2,244	11,293	108	67	14,974
1915 ...	41,636	2,345	43,981	318	20	4,479	8,417	3,011	5,719	2,003	21	14	19,189	4	...	16	1,508	3,297	14,990	83	75	19,976
1916 ...	44,797	2,545	47,342	275	21	3,908	7,532	2,764	6,781	1,939	16	18	19,050	9	...	10	1,783	4,611	17,444	119	112	24,088
1917 ...	...	...	51,328	240	31	4,072	7,974	2,339	6,548	1,501	12	16	19,090	40	...	7	1,626	4,951	20,393	130	143	27,290

(i) The figures given for the years 1910 to 1914 (both inclusive) contain a certain number of cases of persons over the age of sixteen as follows:—

Year.	Male.	Female.	Total.
1910	1,970	162	2,132
1911	2,333	165	2,503
1912	2,652	212	2,864
1913	2,664	194	2,858
1914	2,162	175	2,337

(ii) In the years 1915 and 1916 a certain number of persons over the age of sixteen were charged in juvenile courts, whilst a certain number of children and young persons under sixteen were dealt with in the ordinary courts:—

Year.	Ages.	Male.	Female.	Total.	
1915 ...	Over 16	1,685	225	1,910	were charged in a juvenile court.
	Under 14	864	87	951	were charged in an ordinary court.
	14—16	2,390	102	2,422	
1916 ...	Over 16	1,474	203	1,677	were charged in a juvenile court.
	Under 14	852	85	937	were charged in an ordinary court.
	14—16	3,076	155	3,231	

The figures given here for these two years (1915 and 1916) have not been included in the figures on the table above.

Appendix IX.—Note on the treatment of Child and Adolescent Offenders.

The Children Act, 1908, prohibits imprisonment of Child-offenders.

3. By the Children Act, 1908, the committal of children to prison, whether convicted or under-trial, has been definitely prohibited in Great Britain. Section 102 of that Act provides that no child under fourteen can in any case be sentenced to imprisonment or penal servitude for any offence, or committed to prison in default of payment of a fine, damages or costs; while a young person over fourteen but under sixteen can only be committed to prison if the court certifies that he (or she) is of so unruly a character that he cannot be detained in a place of detention or is of so depraved a character that he is not a fit person to be so detained. The effect of these provisions of law on the admission of children to prison will be evident from the following figures:—

Number of children and young persons under sixteen years of age sentenced to imprisonment and admitted to prisons in England and Wales.

Year.	Males.	Females.	Total.	Year.	Males.	Females.	Total.
1901-02	1,252	43	1,295	1910-11	32	2	34
1902-03	1,025	29	1,054	1911-12	22	1	23
1903-04	1,039	42	1,081	1912-13	27	5	32
1904-05	1,108	43	1,151	1913-14	12	..	12
1905-06	1,002	30	1,032	1914-15	6	2	8
1906-07	708	20	728	1915-16	9	3	12
1907-08	551	18	569	1916-17	18	...	18
1908-09	515	14	529	1917-18	28	..	28
1909-10	140	3	143				

Effect of this legislation in putting a stop to imprisonment of Child-offenders.

4. Since the passing of the Criminal Justice Administration Act, 1914, a certain number of children have apparently been sentenced to detention in police cells, in lieu of imprisonment, for terms of four days and less, but these cases are not included in the above figures and the children in question do not go to prison. It may, therefore, be stated that in Great Britain the imprisonment of children and young persons convicted of criminal offences has practically ceased.

Act also prohibits detention in prison during remand.

5. The Children Act, 1908, also contains provisions intended to prevent the committal of children and young persons to prison even on remand or pending trial or enquiry. Section 95 provides that when an arrested person under the age of sixteen cannot be released on bail, the court shall, unless it records the certificate mentioned in paragraph 3, instead of committing him to prison, commit him to a place of detention provided under the Act and section 108 lays on the police authority, as defined in the Act, the duty of providing such places of detention for every petty sessional division, this duty and corresponding powers being in London entrusted to the London County Council. The cost of maintenance is laid on the above authority, but the Secretary of State is empowered to make rules for the management of such places of detention, commonly known as remand homes, and is required to provide for their inspection.

Provision of remand homes.

6. In compliance with these provisions of law, remand homes have been provided in almost all parts of Great Britain. They vary very much in size and arrangement. The London County Council's remand home for boys in Pentonville consists of three ordinary dwelling houses thrown into one. In these houses several large dormitories have been constituted, there is a small yard for the boys to play in, a common dining-room and school-room and other necessary appurtenances. The boys live in association. The girls are accommodated in a separate home. At Birmingham a remand home for boys and girls has been provided by a private benefactor, boys and girls being in separate wings. The objection has been taken to these homes that owing to the children being in association there is a danger of the worse children corrupting the more innocent and it is certainly possible that this may occur. It is, however, not impossible to provide for the separation of any child who is believed to be specially dangerous and in any case the advantages of saving children from committal to a prison should outweigh this possible drawback.

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Description of remand homes.

7. In these homes are detained children who are arrested by the police, or who have been remanded in custody by the courts, or who have been committed to an industrial or reformatory school but for whom accommodation in a suitable institution has not yet been secured. In the Metropolitan police area children go straight to the remand home on arrest but outside London they are still in some cases taken for the first night to police cells pending the order of a magistrate. The period of detention in a remand home necessarily varies and should not ordinarily exceed three or four weeks, but we heard of cases of children being detained for upwards of a year owing to difficulties in securing admission to a suitable industrial or reformatory school. The character of the remand home, of course, depends very much on the character of the persons in direct charge of it and their selection is therefore an important matter. Usually a man and his wife are jointly employed as master and matron, the presence of a woman in the latter capacity being important. In London considerable precautions are taken against escape, the windows being iron-barred and a regular night watch being maintained, but in Birmingham this was not found necessary, it being stated that the children seldom escaped and that, when they did, they were easily traced and brought back.

Children Act also directs creation of children's courts.

8. Section 111 of the Children Act, 1908, provides that a court of summary jurisdiction, when hearing charges against children, shall sit either in a different building or room, or on a different day or at a different time, from those at which its ordinary sittings are held, and a court so sitting is referred to in the Act as a Juvenile court, commonly known as a children's court. We attended the sittings of several children's courts and found that the usage followed in these courts is far from uniform. In some courts the procedure differs little from that adopted in the case of adult criminals and the use of a children's court means little more than that the child is tried at a different hour from grown-up offenders. In other courts the idea has been recognised that a child-offender should be treated as a child and should not be confused by the use of legal formulae and long words, and a genuine attempt has been made to simplify procedure and reduce formalities. In these courts instead of a child being placed in the dock and asked to plead guilty or not guilty, he is called up to the side of the magistrate and quietly questioned as to whether he did the act alleged or not, and it is claimed that when this course is taken the child-offender generally tells the truth.

Procedure in these courts.

9. We were impressed, in viewing the working of these children's courts, with the importance of the personality of the magistrate. Methods which succeed in one man's hands would fail in those of another, and sympathetic consideration is necessary in order to frame a correct estimate not only of the facts of the case but also of the character of the child and the motives underlying his conduct. The enquiry in a children's court ought, we think, to be marked by as much simplicity and elasticity of procedure as possible. After the truth of the charge has been once established, the investigation should resolve itself into an informal consideration of what is best to be done in the interests of the child and of the public. The circumstances of his home and environment have also to be taken into consideration. The child's previous history must be carefully examined, and for this purpose a report should, if possible, be obtained from any school he may have been attending and a medical report on the child's mental and physical development. To obtain sufficient information on these and other matters time is almost always necessary and hence the importance of a suitable remand home to which the child can be sent while the enquiries are being made. It is sometimes urged that adjournment in such cases is to be deprecated, but apart from the importance of obtaining all relevant information as to the history and surroundings of the child, his behaviour during the interval will often give the magistrate valuable data for forming a conclusion as to the best method of disposal. It should be remembered also that a child need not necessarily be sent to a remand home during the period of adjournment, but may be released on bail, and this course is usually followed in England, when the home conditions are favourable. It seemed to us that the balance of advantage was very much on the side of detailed inquiry and consequent adjournment, if such cases are to be dealt with intelligently and not in a routine manner.

Probation officers.

10. The machinery for making these detailed inquiries has, in England, been provided by various agencies and in different ways. In London and other large towns there is frequently an officer known as the police court missionary, who is appointed and controlled by the Church or

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England Temperance Society. This officer, being the employee of a private benevolent association, is not under the direct control of the magistrate, nor is he specially concerned with child-offenders, as it is his duty to assist all prisoners requiring his aid, but his services are often available in children's cases. In London (and possibly in other large towns) there are also officers appointed by the county council for the purpose of superintending industrial and other schools, and these officers give assistance in the inquiries to be made about children. Lastly, there are probation officers, paid and unpaid. These probation officers do not properly come into the matter unless and until an order is made by the court placing the child on probation, but this distinction is not strictly observed and a probation worker may be used by the magistrate to make preliminary inquiries. In India, where such a private agency as the Church of England Temperance Society does not exist and where it would probably not be found possible to secure more than one set of officials both for antecedent inquiries and the task of superintending probation, the probation officer, where appointed, would probably be the sole agency at the magistrate's disposal.

Methods of dealing with Child-offenders under the Children Act, 1908.

11. The various methods in which a case can be dealt with are enumerated in section 107 of the Children Act, 1908, as follows :—

"(*a*) by dismissing the charge, *or*

(*b*) by discharging the offender on his entering into recognizances, *or*

(*c*) by so discharging the offender and placing him under the supervision of a probation officer, *or*

(*d*) by committing the offender to the care of a relative or other fit person, *or*

(*e*) by sending the offender to an industrial school, *or*

(*f*) by sending the offender to a reformatory school, *or*

(*g*) by ordering the offender to be whipped, *or*

(*h*) by ordering the offender to pay a fine, damages, or costs, *or*

(*i*) by ordering the parent or guardian of the offender to pay a fine, damages, or costs, *or*

(*j*) by ordering the parent or guardian of the offender to give security for his good behaviour, *or*

(*k*) by committing the offender to custody in a place of detention provided under this part of the Act, *or*

(*l*) where the offender is a young person, by sentencing him to imprisonment, *or*

(*m*) by dealing with the case in any other manner in which it may be legally dealt with."

A few observations may be made on these various methods of disposal.

Dismissal of charge.

13. As regards binding over and recognizances, the same authority has expressed the view seldom desirable to discharge a child immediately, as it prevents a full inquiry being made into the case and tends to foster in the child's mind too light an estimate of the court's procedure. On the other hand, there are obvious disadvantages in familiarising a child with a police court and in bringing him in contact with the people commonly to be met with in the precincts of such a court, and there may be not infrequent cases where prompt dismissal of the case is the best method of disposal.

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Binding over under recognizances.

13. As regards building over and recognizances, the same authority has expressed the view that the binding over of the youthful offender himself is not likely to have much effect, as the culprit is often not old enough to recognise the meaning of the document. This remark possesses obvious weight and this method of disposal should, in our judgment, be reserved for cases where the child's age or intelligence enables it to realise the object of the procedure adopted.

Release to care of relations.

14. The committal of the child-offender to the care of his relatives must be regarded, if the relatives are at all suitable persons, as the most satisfactory solution of the problem, for most people agree that home life is far preferable to life in an institution ; but, in taking this course and restoring a child who has lapsed into crime to the custody of his relatives, it is generally desirable to take precautions against recurrence of the evil. This may be done by ordering the parent or guardian to give security for the child's good behaviour for a definite period. Even if this is done, experience suggests that the relatives are often apt to overlook the importance of constant vigilance and we think that the practice advocated by Mr. Clarke Hall of issuing a probation order in combination with an order for taking recognizances or security is to be commended, as the visits and advice of the probation officer tend to keep the child's parents up to the mark. Where a probation order is not thus made, it would probably be advantageous if the recognizances or security order, in which, the parent is bound over, could be made more specific in their terms and if they guaranteed not merely the child's good behaviour but also that he should fulfil certain definite conditions, such as not being out after a certain hour at night and the like, breach of these conditions to entail forfeiture of the bond. A further suggestion has been made that in such cases it should be within the power of the magistrate to escheat a part only of the recognizances or security, thus giving the parent a warning to be careful, while retaining a hold on him for the future. It has also been urged upon our attention that there should be power to combine a fine with recognizances or security or with a probation order, so that the parents' past neglect may meet with immediate punishment, and that in many cases it would have a useful effect both on the child and on his parents to insist on some measure of restitution. This condition regarding restitution can be embodied in the probation order. It is hardly necessary for us to add that, before any child-offender is returned to his relatives, careful inquiries as to the character of the home and its surroundings are desirable.

Probation and its combination with other methods.

15. One of the methods of disposing of a child-offender which is referred to in section 107 of the Children Act, 1908, is that of discharging the offender on his own recognizances, and placing him under the supervision of a probation officer, and in the preceding paragraph reference has been made to the advisability of combining a probation order, such as can be made under the above section of the Act, with one of the other methods of disposal already noticed. The provisions of the English Act on this subject are not, in our opinion, sufficiently elastic and do not give the courts sufficient power to adapt and combine the several methods of disposal contemplated so as to suit the circumstances of each individual case. We will now proceed to deal with the subject of discharge on probation.

Remarks of English Departmental Committee on Probation.

16. The objects of the Probation of Offenders Act, 1907, which forms the basis of the system of probation contemplated by the Children Act, 1908, were thus explained by a Departmental Committee of the English Home Office which sat and reported in the year 1909:—"The Probation Act provides a method by which a person who has offended against the law, instead of being punished by imprisonment or fine, or, in the case of a child, being sent for a prolonged period to a reformatory or industrial school, may be brought under the direct personal influence of a man or woman chosen for excellence of character and for strength of personal influence ; and, lending authority to that supervision, securing that it shall not be treated as a thing of little account, the Act keeps suspended over the offender the penalties of the law, to be inflicted or to be withdrawn according as his conduct during the specified period is bad or good. There are many persons on whom the effect of such influence, applied at the moment when the commission of an offence reveals a special need for it, may be as valuable as the skilled help of a doctor to a person suffering from disease. Often without friends of their own, more often with friends only of a degraded type, out of touch with any civilizing influence, the probation officer comes to them from a different level of society, giving a helping hand to lift them out of the groove that leads to serious crime. He assists the man out of work to find employment. He puts the lad into touch with the managers of a boys' club, where he can be brought under healthy influences. He helps to improve the bad

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homes which are the breeding ground of child-offenders. He persuades the careless to open accounts in the savings bank. Securing for him a respectful hearing and furnishing a motive for the acceptance of his counsels, there is always in the background the sanction of the penal law—the knowledge that the probation officer is the eye of the magistrate ; that misbehaviour will be reported to the court, and will bring its penalty. So great, however, is the influence which a good probation officer is able to exercise over an offender during the specified period of probation, that his friendly interest is often sought after that period has expired, and his advice continues to carry weight, although the powers that supported it are ended."

Duties of probation officers.

17. The duties of a probation officer are laid down in section 4 of the Probation of Offenders Act, 1907, as follows:—"(*a*) to visit or receive reports from the person under supervision at such reasonable intervals as may be specified in the probation order or, subject thereto, as the probation officer may think fit; (*b*) to see that he observes the conditions of his recognizance; (*c*) to report to the court as to his behaviour ; (*d*) to advise, assist and befriend him, and, when necessary, to endeavour to find him suitable employment." It is generally agreed by those best qualified to form an opinion that mere surveillance is not probation and that there ought to be an intimate personal relation between the probation officer and the child. While there was an almost unanimous approval of probation in theory, there is much criticism of its practical working, more especially by superintendents of reformatory and industrial schools, which necessarily often get the failures of the probation system. Sir Evelyn Ruggles-Brise considers that no less than from thirty to forty per cent. of the population of local prisons have been under probation. It is, however, hardly just to condemn the probation system on the ground that a number of the children who have been through it find their way subsequently to those institutions, without the collection of statistics, which are not available, as to the number of children placed under probation and the number of those thereby reclaimed, as well as of those who later on get into further trouble. Indeed, even the most accurate statistics could hardly be other than misleading, because so much would depend upon the class of case which individual magistrates might think suitable for probation. If only the worst cases were selected, the proportion of those who fell again would obviously be higher, while if almost every case, however trivial, were placed on probation the proportion of successes would be much greater.

Criticisms on probation system.

18. It is of more advantage to turn to more practical criticisms. The first one is that probation officers are not properly selected. The ideal probation officer should be a man specially trained in his work, sympathetic and tactful, with a high standard of character and a marked personality. This ideal is seldom realized. Many probation officers are too old, it being important that they should be of an age to sympathise with boys and girls and take an active interest in their amusements. Some witnesses thought that they should be of a social standing superior to the children with whom they have to deal, while others thought that social standing was of less importance than the securing of young men possessing sympathy with boys and the power to influence them for good. Another criticism, which emanated rather from the probation officers themselves, was that magistrates did not sufficiently avail themselves of the powers given to them by the Act to attach conditions to the probation order governing the children's conduct. Similarly, they complained that in many cases it is not the practice of the magistrates to consult the probation officers as to the best method of treating individual cases, with the result that unsuitable cases are sometimes placed on probation. It was generally held that if a boy has a very bad home it is of little use to place him on probation, but that it is better to remove him from demoralizing surroundings and give him a fresh start under new conditions, by sending him at once to an industrial or reformatory school. Another very frequent criticism was directed against the practice of placing a young offender on probation several times in spite of his having relapsed in the intervals. This is partly due, no doubt, to the reluctance of magistrates to send young persons to institutions if their reclamation can possibly be secured at home, for it is often held that institutional training tends to discourage initiative and individuality in those who undergo it. It is also partly due to a desire on the part of the magistracy to avoid imposing expense on the local body. When the second offence is a trivial one, it may be unobjectionable to give a second term of probation, but if a youthful offender, who has been placed on probation once, gets into serious trouble again, he should ordinarily be committed to an industrial school or reformatory. This view was supported by two very experienced workers, one of whom admitted that in his earlier days, when he himself was acting as a probation officer, he had frequently moved a magistrate, when reporting a breach of a probation order, to give the boy another chance, but was quite convinced now that he had been wrong.

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19. Another criticism was that the probation officers, even if properly selected, often had far more work than they could reasonably manage. The witnesses differed as to the number of cases which one probation officer could supervise effectively, but on the whole, sixty seemed to be the maximum limit most generally accepted. In Glasgow and in London cases were mentioned of a probation officer with no less than two hundred cases. It seems evident that a probation officer thus burdened cannot devote to individual cases the amount of time and attention necessary to produce a satisfactory result. A hasty visit paid by an official, unacquainted with the previous history of the boy and his family and ignorant of the causes which have brought the child into trouble, can hardly be expected to accomplish much, and it is essential that no probation officer should be given too many cases to look after at one and the same time.

Excessive number of cases entrusted to a probation officer.

20. In many districts the number of children on probation is so large that a sufficient number of paid probation officers cannot be provided. To meet this difficulty, recourse has been had to the employment of unpaid or volunteer probation workers who undertake to look after a limited number of children. Various opinions were expressed regarding this method. Several witnesses criticised the work of voluntary or honorary probation officers severely. It was said that the voluntary worker, besides often lacking experience, may have many other interests which prevent his giving sufficient time to the work he has undertaken. He perhaps wants an annual holiday and does not realise the necessity of finding someone to replace him in his probation work during his absence. His zeal is apt to evaporate as time goes on. The court has little hold over a volunteer. On the other hand, a voluntary worker of the right sort may be of great value. It seems probable that if voluntary probation officers are utilised as supplementary to paid officers they fill a most useful rôle, and that the best system is to place the youthful offender under a whole-time probation officer, with the understanding that he should, as far as possible, for every young person requiring special attention, secure the services of a volunteer who is willing to interest himself in the case. By this method more intensive work can be done than by an unaided probation officer, however enthusiastic and however conscientious, whose time and attention have to be distributed among fifty to sixty children. In Scotland probation officers are often merely police officers working under another name. This plan is generally held to be undesirable. We were informed that the advantages of the probation system are not yet fully appreciated by the magistracy in Scotland.

Utilisation of volunteer probation officers.

21. The probation officer ought usually to be a full-time officer receiving a fixed salary and not paid by fees. In some cases where the probation officer is the agent of a philanthropic society attached to the court for probation duty, it is the practice to pay him a fee for every case placed under his care and whether he gets these fees himself or hands them over to the society of which he is an agent, there is a temptation to him to retain a case on probation which he really ought to report to the magistrate as a failure. There was a general consensus of opinion also that some measure of central control and supervision over probation officers is necessary. Another important point is that any failure to carry out the conditions of probation should be immediately brought to the notice of the magistrate, as neglect to enforce the terms of the probation orders tends to bring the system into contempt. Under the existing English law, a youthful offender who is convicted and sentenced to fine or other punishment cannot simultaneously be placed under probation. Power to combine probation with fine or an order for restitution is very desirable.

Details in probation work.

22. It is not necessary to attempt any detailed account of the methods to be followed in probation work. It was generally agreed that the boys' clubs or the boy scout organisations, as they exist in Great Britain, are valuable aids to the probation work as providing a fresh outlet for energy and a fresh source of interest.

Value of boys' clubs.

23. The question of the comparative usefulness of probation and of the alternative of commitment of the offender to a reformatory or industrial school is one as to which much difference of opinion exists. Some magistrates, including Mr. Clarke Hall, do not send a child to an industrial home until the probation method has been tried and failed. They think it better to exhaust all means before committing a child to an institution where he will be detained for a lengthy period against his will. On the other hand, the managers of industrial schools argued that such

Probation compared with commitment to an institution.

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delay often resulted in the child's becoming confirmed in bad courses, so that the task of reformation, when he is at last sent to an industrial school, is doubly hard. No fixed rule can be laid down on this question. Where there is an energetic, capable probation officer and a fairly good home, a child may often be kept straight without imposing on the community the cost of maintaining him in an industrial school. If, however, he has a bad home it may be best to send him away at once to an institution.

Whipping.

24. There is much difference of opinion as to the place which whipping should occupy in the disposal of child offenders. Some authorities disapprove of its use as tending to harden the young offender and as being seldom effective. Others regard it as the best, as it is certainly the easiest, method of dealing with a boy and are apt to order so many cuts as a mere routine. One point on which there seemed to be agreement was that repeated whippings serve no useful purpose. A single whipping, well applied, may have the effect of deterring a juvenile offender from the practice of crime, but if it fails it is useless to go on inflicting one whipping after another, and in such a case it is better to commit the boy at once to an industrial school. In this, as in other matters, any fixed routine method of disposal is to be deprecated, and the court should consider each case on its merits. It was the view of several authorities that whipping has more effect if it is administered by some one whom the boy knows and respects, *e.g.*, his father or master, than if it is applied by some chance policeman or other stranger, and that therefore the courts should, if possible, get the father or master to administer a flogging if it is deserved.

The industrial or reformatory school.

25. When release on security, fine, probation or whipping (if resorted to) have been tried and failed, or if the circumstances of the case are unfavourable for such methods, the practice in Great Britain is to commit the juvenile offender for a term of detention in an industrial school, or, if his age requires it, to a reformatory school. Section 45 of the Children Act, 1908, gives power to certify reformatory or industrial schools as fit for the reception of youthful offenders or children, and Sections 57 and 58 declare who may be sent to such schools. In the case of industrial schools, a child need not necessarily have been convicted in order to be made the subject of a detention order. Children found begging or wandering, or destitute, or in charge of a drunken, immoral, or criminal parent or guardian, as well as convicted, may be sent to an industrial school. There is no minimum age, but some schools do not admit children under seven; the maximum age for admission is fixed by the statute at fourteen and the maximum age for detention in an industrial school is fixed at sixteen, but under Section 68 the child remains under supervision up to the age of eighteen. The managers can license any child who has been eighteen months in the school to live with any trustworthy and respectable person and there are provisions regarding revocation of such licenses. By Section 70 there is also power to apprentice or to emigrate children. The funds of most certified schools are partly derived from grants from the treasury and local bodies and partly from private sources, but some schools are wholly maintained by local bodies, such as the London County Council. There are great differences in the quality of these schools. We visited several admirable institutions, such as the Milton School at Farnborough in England and the Moss Bank School near Glasgow in Scotland, where the boys seemed bright, alert and happy and where they were receiving education calculated to give them an excellent equipment in after life. It need hardly be said that in this, as in so much else, success depends on securing the right type of man for charge of the institution, and too much care cannot be devoted to the selection of the superintendent or governor. When the right type of man is secured, he can be counted on to impress his own personality on the staff and inmates. It did not appear that the fact of having been brought up in an industrial or reformatory school is regarded as a slur in after life.

Features of industrial schools visited.

26. The following are a few of the leading features which struck us in the industrial schools which we visited, *viz.*—

(*a*) No bars or high walls or other means of confining the children are employed. Few boys run away, and such cases as do occur appear to be usually among new-comers. Boys soon settle down and do not desire to escape from the school. Such as do abscond are easily traced and brought back.

(*b*) Every effort is made to render the institution as much like a school and as little like a jail as possible. No allusion is permitted to be made to a boy's offence, and he is encouraged to feel that he has secured in the school an entirely new start and that his past will not be brought up against him.

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(*c*) The chief object is to train the boys in self-control and self-respect. With this object considerable use is made, under various forms and different names, of the monitorial system, and when a boy comes to be known and trusted he is given a considerable amount of freedom, being allowed to go out into the town or village on errands.

(*d*) The boys are, when possible, housed in small separate buildings accommodating not more than twenty-five or thirty apiece. Each of these is in charge of a separate house-mother, whose task it is to make the house as homely as possible. Women invariably form a large part of the staff of industrial schools and are necessary for the younger boys, while men teachers are generally required for the older ones, and the warden, governor or superintendent is almost invariably a man. It is generally recognised that there should be a central school-house, where the boys can be collected for instruction.

(*e*) The boys sleep in large dormitories under little supervision, except such as is maintained by the monitors. Cases of immoral conduct in the dormitories are rare. Boys are worked hard and sent to bed tired out.

(*f*) Military methods of dress, drill, etc., are generally deprecated as tending to produce a mechanical way of teaching the boys. Industrial training is directed rather to industrial principles than to the teaching of a particular trade.

Reformatory schools.

27. Reformatory schools, as they exist in Great Britain, do not differ very widely from industrial schools and are governed by the same enactment, the Children Act, 1908. Only youthful offenders, that is, persons convicted of criminal offences, are sent to reformatory schools and the minimum age-limit in a school of this class is twelve and the maximum sixteen. The period of detention must be not less three years and not more than five years and cannot extend beyond the time when the youthful offender will reach nineteen. If the period expires before he reaches nineteen, he remains under the supervision of the managers of the schools up to nineteen. The provisions as to certification, license, and apprenticeship are the same as in the case of industrial schools and the funds of these schools are drawn from the same sources. The boys in a reformatory institution are thus older than those in an industrial school, and require more masculine control. On the whole, however, the conclusions indicated in the last paragraph as appropriate to an industrial school may generally be regarded as applicable to reformatory schools also, although military methods are perhaps more suitable for older than for younger boys.

Age-limits for industrial and reformatory schools.

28. Several witnesses expressed doubts as to the advantages of the distinction between industrial and reformatory schools which has grown up under the English law, and pointed out that the hard and fast age-limits laid down by the English statute are not without draw-backs. It is felt to be a disadvantage of the English system that a boy or girl cannot be retained in an industrial school after the age of sixteen. In many cases power to retain up to eighteen would be useful. Again, in a reformatory school, boys of the minimum age of thirteen may be really too young to be suitable for admission to an institution of this class. While it is desirable to separate older from younger boys, this might be better accomplished by passing on boys from one institution to another on attainment of a certain age. The better plan would be to have a separate institution, resembling a preparatory school, for children under fourteen, and to send them on attaining that age, as well as older boys and girls on first admission, to an institution devised for older inmates. Even then the hard and fast age-limits leave a good deal to be desired, and it would often be better to vest some discretion in the court.

(B). The United States of America.

Absence of statistics in the United States.

29. Owing to the absence of centralised control it is not possible to present the same complete statistical information regarding offences by child-offenders in the United States as has been given in regard to Great Britain. The figures would have to be collected from the individual reports of

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the 48 States of America and even then differences in methods of compilation would probably largely invalidate any conclusions based on the result.

American ideas regarding the child-offender.

30. The general idea underlying the legislation of the United States on the subject of the child-offender is that, just as in questions of a civil nature full responsibility is not imposed until the age of majority is reached, so in criminal matters the fact that the child stands in a different grade of responsibility from the adult ought to be recognised. As the child's delinquency is largely the result of bad surroundings and want of care, the State acknowledges a certain degree of responsibility for these defects. When a child is proceeded against criminally, he is considered to be as much sinned against as sinning. He is not charged with a definite offence but with delinquency generally, and when he is found to have violated any law he is not treated as a convict but as a ward of the court. The idea of the quasi-parental position which the children's courts should occupy is never lost sight of, but runs through the whole of the procedure. Thus the action taken to bring a case against a child to the notice of the court is not by way of a complaint or charge sheet but by means of a petition. When the police arrest a boy they have discretion to take him home and leave him with his parents or, if the offence is serious or there is doubt about his identity, to lock him up. Next day they file a petition in court alleging that he is a delinquent. This petition would ordinarily contain a statement of facts constituting the delinquency ; indeed, the law of California prescribes that it shall do so. The court then issues a summons requiring the parents or guardians to produce the boy in court. This summons is served by a probation officer, who simultaneously investigates the circumstances of the case. They have in some places, for instance, Cleveland, Ohio, a clearing-house system which greatly facilitates such investigations. Every social agency, including the juvenile court, which has relations with any family in the city, notifies the fact to an office known as the clearing-house, and a reference to that office enables the juvenile court to find out at once what other agency has had to deal with a particular family, and then to ascertain from that agency all relevant facts.

Juvenile courts.

31. At this stage we may notice another important feature of some of the American juvenile courts. In many States all cases are dealt with by the chief probation officer before they come into court. That officer frequently, on his own authority, calls upon parties to appear before him, and though he has no power to compel appearance, they know that if they fail to respond to his call they will be formally cited before the court. In this way a large number of petitions are disposed of without coming into court at all. In the Chicago juvenile court, we were told that in the year 1918 out of twenty thousand complaints against juveniles for violations of the law seventeen thousand were disposed of in this way, and only three thousand actually came into court. Sometimes a letter to the parents of a delinquent calling upon them (for example) to pay for a broken window and to exercise better supervision over the boy may suffice to dispose of the petition ; sometimes a complaint can be settled by the probation officer investigating the matter on the spot ; sometimes the chief probation officer may decide that the payment of a sum of money will meet the case and, if that decision is accepted by the parents, further proceedings drop. A somewhat similar procedure finds legal recognition in the law of California. There, in the larger counties the judge of the juvenile court may appoint a referee who hears the testimony of witnesses and certifies to the court his findings upon the case together with his recommendations as to the orders to be made. The court, after due notice to the parties, may either accept the orders proposed or make a different order with or without a further hearing. In this way a great deal of the time of the court is saved. The fact that vast numbers of juveniles are proceeded against in America is due to the numerous regulations of a petty character imposed by municipal law, and it is of course only the minor offences with which the probation officers deal independently. If the case actually comes into court, the judge hears what the petitioner and the probation officer have to say. He then questions the alleged delinquent who usually admits the facts. If he denies them witnesses are examined.

Simplicity of procedure.

32. The proceedings in juvenile courts are marked by simplicity and elasticity, but do not always follow the same course. For instance, in New York, when a youthful offender is charged with a definite offence, it is customary, unless the case is trifling and can be dealt with summarily, to dispose of it at two separate hearings. At the first, proceedings are of a judicial character, and it is customary for the judge to mark this feature by wearing a gown. This hearing is devoted to the elucidation of the facts of the particular offence and, if they are proved, there is an adjournment during which inquiries into the environment and history of the offender are made by the probation officer. When the case is finally disposed of at the second hearing, the gown is dispensed with. The distinction is not, however, one to which we think much importance need be attached. Both hearings are, and should be, informal. Lawyers have the right to appear, but seldom do so, recognising that the court is concerned not so much with the punishment of guilt as with the conversion of the delinquent from the error of his ways.

Appendix IX.—Note on the treatment of Child and Adolescent Offenders.

33. We have already noticed the methods of disposal of a juvenile offender open to an English court. Similar methods are available in America, and by way of illustration we give below the corresponding provisions of the Californian law:—

Methods of disposal - the law in California.

"The court may make an order committing said person for such time as the court may deem fit, but not beyond the time when such ward of the juvenile court shall reach the age of twenty-one years, either (*a*) to the home and care of some reputable person of good moral character; or (*b*) to the care of some association, society or corporation embracing within its objects the purpose of caring for or obtaining homes for such persons, willing and able to receive and care for said ward; or (*c*) to the care of the probation officer, to be boarded out or placed in some suitable family home, in case provision is made by voluntary contribution, or otherwise, for the payment of the board of said ward until suitable provision may be made for said ward in a home without such payment, said ward to be subject to the supervision of the probation officer and the further order of the court; or (*d*) on probation to the care of the probation officer, said ward to remain in the home of said ward, or in any other fit home in which the court may order the probation officer to place said ward, subject to the visitation of the probation officer, said ward to report to the probation officer as often as may be required, and to be subject to be returned to the court for further proceedings whenever such action may appear necessary or desirable; or (*e*) the court may, if said ward of the juvenile court be a boy, commit him to the Preston School of Industry, or to the Whittier State School, during his minority; *provided*, that no boy under the age of sixteen years shall be committed to the Preston School of Industry, nor any boy over the age of sixteen years to the Whittier State School, or if a girl, commit her to the California School for Girls, until twenty-one years of age; or may commit such person to any other State or county institution that is now established or may hereafter be established for the purpose of caring for and training persons that come within the provision of this Act; *provided, however*, that before conveying any such person to any such institution it shall be ascertained from the superintendent thereof whether such person can be received; *provided, however*, that such commitment under this Act to either the Preston School of Industry or the Whittier State School shall permit the transfer of any such boy from one institution to the other upon the agreement thereto by the superintendents of such institutions.

"When any person alleged to come within the provisions of any of sub-divisions one to thirteen inclusive of section one of this Act shall be found by said court to come within said provisions, said court may at its discretion admonish said person and dismiss said petition.

"No ward who is under the age of eight years and no ward who is suffering from any contagious, infectious, or other disease which would probably endanger the lives or health of the other inmates of said State schools shall be committed thereto. No person under the age of fourteen years at the time of the commission of any offence with which he may be charged shall ever be sent to a State prison unless he has first been committed to the Whittier State School, or the Preston School of Industry, and has there proved to be incorrigible or not amenable to the discipline of said school. No ward shall be committed to said State schools unless the judge of said court shall be fully satisfied that the mental and physical condition and qualifications of said ward are such as to render it probable that such ward will be benefited by the reformatory educational discipline of such schools." (California Juvenile Court Law, Section 8.)

34. Restitution as a condition of probation is finding increasing favour in America, and in various quarters we found that emphasis was laid upon its importance from an educational and reformative point of view. Its enforcement must, however, always be conditioned by the ability of the delinquent or his parents to find the money without seriously trenching on their means of subsistence. Sometimes the practice is adopted of passing an order committing the delinquent to an institution and then suspending the order and placing him on probation, subject to a condition as to restitution. Sometimes the money is found by the parents and sometimes by the boy himself, and in the latter case it is usual to compel the boy to refund the amount by instalments, or he may be required to do some work for the city out of school hours, such as checking traffic, his earnings being appropriated towards the sum which he has been ordered to make good.

Restitution and probation.

Appendix IX.—Note on the treatment of Child and Adolescent Offenders.

Adults in juvenile court cases.

35. The juvenile court also often deals with adults in connection with juvenile delinquency. Thus in some States any person who does anything, which causes or tends to cause a child or young person to become delinquent, is guilty of a misdemeanour and is subject to the jurisdiction of the juvenile court. He may be sentenced to fine or imprisonment, or his sentence may be suspended and he may be placed on probation subject to suitable conditions. Occasionally, it is thought advisable to let the culprit go to prison for a short time before suspending sentence.

Detention homes.

36. Separate detention homes are provided for the custody of juvenile delinquents, whom it is necessary to detain pending their disposal by the courts; and it is well recognised that in these homes bars and locks are necessary. This was the more remarkable in the face of the strong feeling in America in favour of dispensing with enclosing walls and outward forms of restraint wherever possible, and especially in all institutions for juveniles; but the reason is not far to seek. The inmates of these homes are caught fresh from the streets and seldom remain in the homes for more than a week. It is impossible to create any public opinion among them in such conditions, and it becomes necessary to hold them by force rather than by the exercise of any moral influence. The necessity in the detention homes of separating boys from girls, the older from the younger inmates and the minor from the more serious offenders is generally recognised, while in the best of them considerable attention is paid to the suitable education of the inmates as well as to their occupation and amusements.

Boarding out preferred to committal to institutions.

37. There is a strong feeling in America in favour of boarding out juvenile delinquents in private homes in preference to institutional treatment. We were told that in the State of Ohio, hundreds of boys have been placed out on farms with excellent results, and this method is used with even greater freedom in California. It is indeed universally recognised in America that institutional treatment should only be adopted as a last resort. It is a necessary result of this doctrine that the standard of character and conduct among the inmates of juvenile institutions should be low, but the managers accepted this result as natural and inevitable. However good an institution may be, it is sure to contain a proportion of bad boys and there is always the danger that a youngster may learn more evil within it than he would outside. It is not, however, denied that in some cases institutional treatment is unavoidable and it is recognised that it is generally a mistake to place a boy on probation a second time when he has once failed; and that it is a serious blunder to continue to place him on probation in spite of repeated failures.

Probation and probation officers.

38. In America as in England the majority of children found to be delinquent are placed under the supervision of probation officers. An English authority, Mr. Cecil Leeson, lays stress on the distinction to be drawn between probation as applied to children and as applied to juvenile-adults and adults. In the one case the irresponsibility of the child and the importance of his reform are the primary considerations, in the other the protection of society is of the first importance, and it seems evident that in the latter case much more detailed investigation by the probation officer and much greater hesitation on the part of the judge ought to be exercised before the offender is placed on probation. The extent of the use of probation in the United States may be gathered from the fact that in the state of New York there are over two hundred salaried probation officers, and that over twenty thousand persons are placed on probation annually. These figures include adults as well as child-offenders but the existence of this large force of probation officers renders the application of the system to children both easier and more complete than it is in Great Britain. The special features of the American system are the method of collecting information through probation officers who are neither sworn nor subject to cross-examination, the growing attention paid to the mental and physical condition of the children, and the great importance attached to psychiatric and psychological examinations. As these, however, are matters affecting probation generally and not merely the application of probation to the child-offender, they need not be noticed further here.

Section II.—The Adolescent Offender.

Need for special treatment of adolescents.

39. We propose to deal now with the second portion of the subject of youthful offenders, namely, the case of the adolescent offender or juvenile-adult—"J.A." as he is called in British prison parlance—the boy or girl who at the time of committing an offence has attained the age of sixteen but

Appendix IX.—Note on the treatment of Child and Adolescent Offenders.

has not yet reached twenty-one. This is an age at which development, both physical and mental, is still rapidly proceeding in the normal individual and at which the character is still plastic and peculiarly open to extraneous influence, whether good or bad. Boys and girls of this age are generally entering on industrial life ; as they acquire greater freedom, the strength of home influence becomes less ; and the growth of the sexual instincts renders them specially liable to temptation. The need for special treatment in the case of criminals at this period of life is evident.

American reformatories.

40. This need was early recognised in the United States of America where the Elmira Reformatory was started in 1876. But the age-period there adopted is sixteen to thirty, an arrangement which is perhaps open to the criticism that it fails to distinguish between adolescent and adult life. Physical growth ceases long before thirty and statistics indicate that criminal habits are generally established at an earlier age. We do not, therefore, propose to deal at length with the American system of State reformatories, because owing to the selection of age-periods its procedure is inapplicable for our purpose.

The beginning of the Borstal system in England

41. In Great Britain the question of providing differential treatment for adolescent criminals was apparently first mooted by a Departmental Committee of 1894 which recommended that courts of law should have power to commit to State reformatories offenders under the age of twenty-three for periods of not less than one year and up to three years, with a system of licensing graduated according to sentence. Nothing was apparently done on this recommendation until 1899-1900 when an experiment was commenced at Bedford Prison, where a small number of young prisoners were collected from the London prisons and given differential treatment. In the following year it was determined to establish a wider class in the convict prison at Borstal, which was set apart for "juvenile adults," and this was occupied in October 1902. The experiment, was first limited to the Metropolitan district, but about 1903-04 it was applied to the whole of England and Wales, and in the following year a part of Lincoln Prison also was set apart for adolescent prisoners. It was further decided to apply, so far as length of sentence would permit, the principle of the Borstal system, as it was now called, to all offenders committed to prison between the ages of sixteen and twenty-one. Those whose sentences were long enough went to Borstal and Lincoln Prisons and those who were under shorter sentences underwent what was called "the Modified Borstal system" in the local jails or, in the case of convicts sentenced to penal servitude, at Dartmoor. The latter did not mean much more than segregation from adults, physical exercise and drill, and weekly lectures and addresses. The Borstal Association for the assistance of youths discharged from Borstal Prison had been founded in 1903-04 and a little later local Borstal committees were established at all prisons. In 1910-11 the adolescents at Lincoln were removed to a second Borstal institution for males which was opened in the premises previously occupied by the Feltham Industrial School, but unfortunately these buildings had to be handed over for military purposes during the War and this Borstal institution was closed. A Borstal institution for girls was provided in the Aylesbury Prison, but it was not till near the end of 1918 that adult female prisoners were entirely cleared out of this institution. In Scotland a Borstal institution for males was provided in the Aylesbury Prison, but it was not till near the end of 1918 that adult female ponding institution has been opened in that country for female adolescents, who are sent to the prison at Dumfries. The accommodation now available in regular Borstal institutions in Great Britain is Borstal 450, Aylesbury 164, Polmont 170.

The Prevention of Crime Act, 1908.

42. Up to 1908 the Borstal system in England and Wales was carried on by rules made by the Secretary of State under the powers vested in him by the Prison Act, 1898. In 1907 it was proposed to place the matter on a legislative basis and a Bill entitled "The State Reformatories Bill" was introduced into Parliament. This could not be proceeded with, but in 1908 the Prevention of Crime Act was passed, giving legislative sanction to the establishment of "Borstal institutions" and to the committal thereto of offenders between the ages of sixteen and twenty-one. The provisions of this enactment are worthy of special notice. The reference to State reformatories which had been included in the Bill of the previous year was omitted but in section 4 a Borstal institution was described as a place "in which young offenders whilst detained may be given such industrial training and other instruction, and be subjected to such disciplinary and moral influences as will conduce to their reformation and the prevention of crime." The idea conveyed by this description seems to imply reformation rather than punishment, but subclause (2) of this section and section 1 of the Act, which empowers the courts to commit youthful offenders to Borstal institutions, do contain a definite reference to penal discipline. In lieu of passing a sentence of penal servitude or imprisonment the court may "pass a sentence of detention under penal discipline in a Borstal institution." Apparently, therefore, "penal discipline" is an essential element in Borstal institutions.

Appendix IX.—Note on the treatment of Child and Adolescent Offenders.

43. This conclusion is, however, at variance with many authoritative declarations on the subject. Thus in a Home Office memorandum which bears no date but which was issued after the passing of the Prevention of Crime Act, 1908, the following passage occurs : "The following are the principal features of the system :—The Borstal institutions are dissociated from ideas and names connected with prisons. Everything is done to promote a feeling of hopefulness and progress and to eliminate the notion of mere punishment and repression." Throughout this memorandum stress is laid on the reformatory character of the training to be undergone in these institutions while no reference to penal discipline anywhere appears. Again, the reports and prospectuses of the Borstal Association, a body of which the Home Secretary is President, and Sir Evelyn Ruggles-Brise, Vice President, consistently describes the Borstal institutions as "State reformatories". Lastly, and most authoritative of all, is the statement made in the House of Commons in April 1914 by Mr. McKenna, then Home Secretary, in introducing the Bill which afterwards became the Criminal Justice Administration Act, 1914. He said : "Our object is to provide in the Borstal institution a place where the offender will not be imprisoned but will only be deprived of his liberty to that degree which is necessary to ensure discipline ; where he will live under strict discipline affecting alike his body, his mind and his character and where he will be taught an industry. It is not a prison. It is, or it should be, far more like a school under servere dicipline with a strict industrial training. We do not intend the Borstal institutions to be anything like a prison, and as we develop in the management of the Borstal institutions, I can assure the House that they will be more and more removed from anything in the nature of a prison and become more and more purely reformative and training institutions."

Mr. McKenna on the object of Borstal institutions.

44. It would thus seem that in spite of the reference to "penal discipline" in the Act of 1908 the authorities in 1914 intended to develop these institutions more and more on reformatory lines. Sir Evelyn Ruggles-Brise, however, in the interview which he was good enough to give us, specially referred to the presence of the words "penal discipline" in the Act and said that he laid great stress on the fact that the Borstal institution is to be a place of penal discipline and, therefore, in that way different from a reformatory institution. Mr. Maxwell of the Home Office told us that when he visited Borstal he was surprised to find certain prison elements which he had not expected and added that there is certainly a great gap between a reformatory and a Borstal institution. Finally, the Borstal Association itself has noticed this and in its last available report (1919) remarks "Borstal institutions are still in an early state of development. Their appearance and many of their rules show their origin. They have developed from the prison service and are staffed by officers of that service." It thus seems to be still undecided whether the Borstal institutions of England and Wales are to be developed on the lines of a reformatory or of a penal institution, and the remark of the Borstal Association that they are still in an early stage of development, (though it now extends to thirty years) perhaps indicates a possibility of change from the existing conditions.

Other views on the same subject.

45. A somewhat similar uncertainty seems to have existed in the minds of the magistracy regarding the class of adolescent offender for whom the Borstal institutions were intended. Possibly this may have been due to the wording of the Home Office memorandum, above referred to, which expressly says that "The system is not intended for first offenders or novices in crime," but Sir Evelyn Ruggles-Brise informed us that more than half the youths now received have not had a previous conviction, though presumably they must have shown criminal tendencies. It seems indeed to be very difficult to determine what classes of adolescent offenders should be selected for committal to a special institution except by some hard and fast definition excluding those convicted of certain offences or those with or without a previous conviction.

Classes of adolescents for Borstal institutions.

46. The number of adolescents admitted into prisons and Borstal institutions in England and Wales during the past eighteen years has been as follows:—

Statistics of adolescents admitted to prisons and Borstal institutions.

Year.	Males.	Females.	Total.	Year.	Males.	Females.	Total.
1901-02	13,342	2,200	15,542	1910-11	10,380	1,163	11,543
1902-03	13,767	2,421	16,188	1911-12	8,265	938	9,203
1903-04	14,924	2,452	17,376	1912-13	7,789	900	8,689
1904-05	16,081	2,326	18,407	1913-14	6,320	858	7,178
1905-06	15,878	2,248	18,126	1914-15	3,663	863	4,526
1906-07	13,539	1,641	15,180	1915-16	1,973	828	2,801
1907-08	12,644	1,286	13,930	1916-17	2,538	1,020	3,558
1908-09	12,645	1,234	13,879	1917-18	3,332	1,329	4,661
1909-10	12,236	1,186	13,422	1918-19	3,537	1,429	4,966

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Any effect which the Borstal institutions have had would, of course, not appear in these figures but in those of adult crime and as there has been a great reduction in such crime extending over the last forty years, it may reasonably be assumed that the Borstal institutions have had a share in this result. Unfortunately no full statistics, such as are given in paragraph 2 regarding child-offenders, are available in respect of adolescents.

47. The number of adolescents from England and Wales admitted to Borstal institutions in recent years is shown in the following table for which we are indebted to the kindness of the Home Office :—

Statistics of admissions to Borstal institutions.

Year.	Convicted upon indictment.	Convicted summarily and sentenced at quarter sessions.	Convicted of misbehaviour at or escaping from reformatory school.	Transferred from prison by Secretary of State.	Total number received.
Males—					
1909	161	...	...	6	167
1910	403	...	2	7	412 (*a*)
1911	461	...	4	7	472 (*b*)
1912	474	...	7	11 (*c*)	492
1913	464	...	7	2	473
1914	444	...	8	1	453
1915	175	10	7	...	192
1916	176	122	5	1	304
1917	217	146	12	1	376
Females—					
1909	10	..	...	9	19
1910	21	...	...	12	33 (*a*)
1911	49	...	1	5	55 (*b*)
1912	46	...	4	5	55
1913	48	...	...	1	49
1914	58	...	2	1	61
1915	54	7	1	...	62
1916	41	49	2	1	93
1917	60	46	2	1	109
Totals					
1909	171	...	...	15	186
1910	424	...	2	19	445 (*a*)
1911	510	...	5	12	527 (*b*)
1912	520	...	11	16 (*c*)	547
1913	512	...	7	3	522
1914	502	...	10	2	514
1915	229	17	8	...	254
1916	217	171	7	2	397
1917	277	192	14	2	485

(*a*) Not including a number of cases received in Borstal institutions established at certain local prisons.

(*b*) Including a number of cases received in the previous year in Borstal institutions established temporarily at certain local prisons.

(*c*) Excluding 4 males (included in column "Convicted upon Indictment") who received sentences of Borstal detention while undergoing sentences of imprisonment and were transferred by the Secretary of State to serve the unexpired sentences of imprisonment in Borstal institutions

These figures apparently do not usually include the number of adolescents who are not actually sent to Borstal and Aylesbury but who undergo the so-called modified Borstal system in certain local prisons which have been selected as centres for the purpose. It will be noticed that the average number of adolescents selected for Borstal treatment in the five years ending 1917 was 434 per annum. As the minimum period for which an order of detention in a Borstal institution can be made is two years and as the total accommodation available in Borstal institutions in

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England and Wales for both sexes is only 614, it will be clear that at present many more adolescents are selected for this treatment than can be dealt with. One result of this is that a boy sentenced to detention in a Borstal institution has to spend a long time in prison before accommodation at Borstal becomes available. Another result is that, in order to pass as many adolescents as possible through the institution, boys are being passed out of Borstal more rapidly than should ordinarily be the case, the average period of detention being only about nine months. There seemed to be an almost unanimous opinion among the officials concerned that this period is insufficient to give the reformatory influences supplied by the institution a fair chance, and that the full minimum of two years is generally needed. It was also generally held that the number of inmates in a Borstal institution should preferably not exceed 200 and in no case be more than 300, and that the number admitted at Borstal (450) is too large to be properly looked after by one governor. A further criticism was that adolescents are at present often committed to a Borstal institution too late, and that there would be a better prospect of good results if young offenders were sent in on their second conviction for a crime indicative of criminal tendencies. This is a similar complaint to that already noticed in regard to the committal of child-offenders to reformatory and industrial schools.

Release on license from Borstal institutions and revocation of license.

48. Under the Prevention of Crime Act, 1908, the minimum period of committal to a Borstal institution was one year which has since been raised to two, and some officials connected with the working of the Borstal institutions would like to see it further enhanced. There are also provisions allowing release on license at any time after the expiry of six months, or in the case of females, three months from the date of admission; power to keep every inmate under supervision for six months, now raised to twelve months, after date of release; power to transfer suitable cases from prison to a Borstal institution; and power to transfer incorrigibles from a Borstal institution to a jail and to commute their sentences accordingly. Inmates of a Borstal institution, who relapse into crime while on license, are remanded to undergo a period of detention in jail at special Borstal sections of the jails at Canterbury in England, and Barlinnie in Scotland, and are then redrafted into their respective Borstal institutions. In the male institutions no ill results appear to have been traced from the re-admission of this class of inmate, but at Aylesbury a strong opinion was expressed that the return to the institution of girls who had relapsed into bad courses was undesirable.

Grades, privileges, and punishments in Borstal institutions.

49. The instructions for carrying out the regulations for the management of Borstal institutions for males and females in England and Wales are printed as Annexures to this Appendix. In both it will be seen that the inmates (the term "prisoners" being avoided) pass by progressive stages from an ordinary grade which is entered on admission to a special grade which qualifies for release on license. In both apparently the ordinary grade is regarded as the punitive or deterrent period of detention, though this is only expressly stated in the regulations relating to Borstal institutions for females. During this stage conversation is prohibited or strictly limited. In the case of females, whose ordinary stage lasts ordinarily only six weeks, conversation is limited to such as is incidental to daily routine duties and there is thus no absolute rule of silence at any period. In the case of males, however, though the rules are not very explicit on the subject, all speaking is apparently prohibited during the first stage or month and speech is allowed during the second and third stages or months only on Saturday and Sunday and then to a limited extent. Breach of this rule may involve longer detention in the first or other grade thus a longer period of silence. Punishment by reduction of grade is said to be much felt. There is also a penal or punishment grade for offenders against discipline or the rules of the institution which involves solitary work and exercise, reduced diet and less comfortable cells.

Cells and dormitories.

50. The inmates in the Borstal institution at Borstal have their meals in their cells during the first three months, afterwards in association. All boys sleep separately except those in the special grade who sleep in large dormitories, 25 boys in each. A light is kept burning during the night but is turned down after 10 P.M. and the rooms are overlooked by a passage in which a warder patrols. In spite of these precautions cases of immorality have been suspected though none have been proved, and the governor and chaplain were opposed to the dormitory system, partly owing to the difficulty of adequate supervision, partly because under it it is practically impossible to prevent corrupting conversation and the boys get no privacy by night or day. At the Scottish Borstal institution, for almost similar reasons, dormitories have been entirely abandoned, but presumably the controlling authorities in England take a different view.

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Occupations.

51. The chief occupations followed at Borstal are farm-work, building, carpentry, metal-work, tailoring and shoemaking, besides such services as cooking and laundry work. The institution is largely self-supporting in the matter of making and mending boots and making-up clothes. It sells little to the outside public. Great attention is paid to military drill, doubtless partly owing to the fact that during the war most of the boys went from the institution into the army, and an excellent military band has been created. Gymnastics are also actively cultivated and a high standard of excellence is reached by some of the inmates.

Recreation and reading.

52. Chess, dominoes and draughts are allowed to be played on certain days at Borstal after the first month but apparently no outdoor games are permitted until the special grade is reached and then only on Saturday afternoons. From October to March a lantern lecture or concert is given every Saturday night and a lecture of an educational character illustrated by lantern slides every Wednesday. Two daily and three weekly illustrated papers are taken in but their use is restricted to the special grade and probationers and to the sick in hospital, and there is no general recreation or reading room, indoor games being played in the hall or corridors. A library is provided and inmates are allowed, in addition to the usual religious and school books, one work of fiction and one educational work, the latter term including history, biography, travel and poetry. An extra religious book can also be obtained on application to the chaplain. The educational work and the religious book can be changed only once a month, a rule which differs from that in force in the Scottish Borstal institution where it was stated that, with a view to encourage reading, all restrictions on the borrowing of books from the library have been removed and a boy may have as many books and may change them as often as he likes.

General remarks on English Borstal institutions.

53. The Borstal institution at Borstal is situated on a fine breezy site above the town of Chatham, but its proximity to a garrison town has disadvantages and prevents the boys being given as much liberty to go about unattended as would be possible if the institution were differently located. The Borstal Association's remark that the Borstal institutions' appearance and many of their rules show their origin, has already been referred to in paragraph 44 and, on the whole, the Borstal institution at Borstal seemed to be most open to the criticism therein implied and least to fulfil the idea expressed by the Home Office circular above quoted that it should be dissociated from ideas and names connected with prisons. The recruitment of the staff from the Prison Department, however carefully they may be selected, certainly seems likely to influence the development of the institution in the direction of the methods and ideas with which the training of the officials has made them familiar. The importance of a decision as to whether an institution of this character is to be primarily penal or primarily reformatory in its aims and atmosphere does not seem to require any demonstration.

Scottish Borstal institution at Polmont.

54. The Borstal institution at Polmont in Scotland is located in buildings which were originally constructed and used for the well-known public School, Blairlodge, and there is no encircling wall such as exists at Borstal. Escapes are said to be rare and generally to occur only among new arrivals. A rule of silence formerly prevailed but it was considered to have a bad effect and has been abolished. The boys sleep in cells and have their meals in a common dining room where conversation is permitted, except to the new arrivals, subject to the observance of ordinary decorum. If a boy misbehaves he is liable to be deprived of his privilege of dining in association and then has his meals in his cell until he asks to be allowed to come back. Football and cricket are played, and during the winter evenings there are lectures, musical evenings and concerts, which latter are sometimes got up by the boys themselves. A concert on Saturday night is said to have a good effect. A swimming bath, which can be supplied with hot water, exists and every boy is taught to swim. The grade system exists and boys who have reached the first class are used as squad-leaders and are treated as under-officers having power to report but not to punish. They are sent out on errands by themselves and every effort is made to foster a sense of duty and a feeling of trust. Boys of the first class are not required to be in cells at 9 P.M. when the rest of the inmates are locked up, but can go later. The governor, however, laid stress on the point that if boys are kept hard at work and exercise all day they are generally glad to go to sleep at nine o'clock. Both he and the chaplain were much opposed to dormitories on the ground of the impossibility of stopping bad conversation.

Occupations of inmates at Polmont.

55. The industries followed at Polmont are much the same as at Chatham, but a good deal more has been accomplished at the former institution in the direction of industrial training and more success has been met with in overcoming difficulties with the trade unions. At Polmont every boy passes first

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through the cookery classes and may then choose his own trade. If he is discontented he is sent to the laundry which is unpopular and which, though necessary for the purposes of the institution, is not generally a suitable business for boys. The principle has been generally followed that boys should be employed on useful work and taught to turn out useful articles, as it is more interesting to the inmate, and it is held that there is no objection to selling the articles thus produced, provided that care is taken not to undersell the trade. Electricity is produced on the premises and utilised for heating, lighting, and laundry, and it is proposed to extend its use to shoemaking. Tasks are not enforced but the inmates are given marks for work by the instructors. A new hall has been built by the inmates and other building works were in progress at the time of our visit. The governor at Polmont was an ex-schoolmaster and the influence of his previous training was therefore likely to be towards development on educational lines.

Borstal institution for females at Aylesbury.

56. The only Borstal institution for girls in Great Britain is at Aylesbury. This was at first located in a wing of the female convict prison, the rest of the building being used for adult women prisoners, but such an arrangement proved to be unsatisfactory and the whole of the premises are now used for Borstal purposes. Here, as at Polmont, no rule of silence is enforced, the girls other than those in the ordinary grade have their meals in association and conversation, subject to reasonable limitations, is allowed. The chief industries, besides cooking and laundry work, are dress making, typing, shorthand and farm-work. Each inmate goes through a three months' course in needlework, laundry, cooking and house work, and devotes her remaining time to work of her own choice or according to convenience. Two recreation rooms have been provided in which the girls in the special and probationary grades are allowed to meet, talk and even dance. Lectures on instructive topics are given, first aid classes are held, singing lessons are given to any inmate likely to profit by them, and once a year the girls are allowed to take part in a concert. A troop of girl-guides has been formed and is conducted by a lady living in the neighbourhood, and various ladies, approved by proper authority, are allowed to visit the girls. A monitorial system is in existence and appeared to be working well. A work monitor gives instruction in needle-work, a garden monitor is in charge of the garden party, and table monitors have to keep order at meals. It is proposed to extend the system to the laundry, kitchen and hospital and to improve the position of the monitors by giving them accommodation separate from the other girls. The plan of letting the inmates choose their own monitors had been tried but had not worked well and in future monitors will be selected by the governor. The grade system is in force and girls who have reached the special grade are allowed to go out shopping, though not singly. The general object kept in view was said to be to assimilate the treatment of the inmates to that obtaining in a school and to avoid as far as possible the adoption of jail methods. To this plan is perhaps to be attributed the considerable measure of success which has been achieved, in spite of the fact that over 50 per cent. of the inmates are found to be suffering from venereal disease when admitted, and a still larger proportion come from bad homes, or have no homes at all.

Staff of Borstal institutions.

57. The staff provided in the several Borstal institutions numbered as follows :—Borstal : staff 54, usual population 450; Polmont: staff 44, usual population 170; and Aylesbury: staff 40, usual population 164. The introduction of the eight-hour day has necessitated an increase in the staff, and it was generally held that a staff equal to 25 per cent. of the inmates was sufficient.

The Borstal Association.

58. Important as are the constitution and management of Borstal institutions, they cannot be expected to achieve success unless their work is supplemented by suitable provision for the supervision and after-care of inmates after release from the institutions. This fact has been recognised in section 8 of the Prevention of Crime Act, 1908, which allows payment to be made out of public funds towards the expenses of a society undertaking the duty of assisting or supervising persons discharged from a Borstal institution. Such a society has been formed in England under the name of the Borstal Association, a quasi-official body of which the Home Secretary is *ex-officio* President. It was founded in 1903-04 by Sir Evelyn Ruggles-Brise, Chairman of the Prison Commission "in the belief that the best results could be obtained in the field of after-care by a voluntary association working in close co-operation with the Department responsible for Borstal institutions." (Borstal Association's Report, 1916.) Accordingly, the society is furnished, not only with a number of distinguished patrons, but also with an influential non-official executive committee. The practical work is directed by Sir Wemyss Grant-Wilson, the Honorary Director and Treasurer, and there is an Assistant Director (Miss Ellwood) for the girl's side of the work

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The methods of aiding inmates on release.

59. Under the provisions of the Prevention of Crime Act, 1908, the Prison Commissioners may, by license, release an adolescent from a Borstal institution at any time after the expiry of six months, or in the case of a female three months, from the commencement of the period of detention, on condition that he (or she) is placed under the supervision or authority of any society or person willing to take charge of the case. Three months before the date proposed for release the boy or girl is visited at the Borstal institution by a representative of the Borstal Association who sees him alone, discuss his plans with him, and obtains the opinion of the institution officials as to his progress and prospects and as to his suitability for the work he wishes to take up. Information is at the same time obtained about the adolescent's home, and arrangements are then made for his reception at the home, or at lodgings; if the home conditions are found to be unsatisfactory or if there is danger from old companions, work is found in a new district. No boy or girl is allowed to be discharged from a Borstal institution until a situation or work has been found. On the morning of release, he is provided with a complete outfit and is brought by an officer of the Association to the Association's offices, where he is interviewed, advised and encouraged, and despatched to his destination. He is there met by the local representative of the Association who has already arranged lodgings for him and who supplies working clothes, money for current expenses and for purchase of tools, and gives any other necessary assistance. This representative is then expected to maintain a fairly close supervision over the released adolescent, seeing that he is regular at work and of good conduct generally and, if possible, getting him admitted to a boys' club or otherwise providing him with means of healthy amusement. Periodical reports have to be submitted to the Borstal Association's office, and if a boy is found to be going wrong it is open to the Commissioners to cancel the license and remand the adolescent to the Borstal institution or to Canterbury.

Supervision exercised by agents of the Borstal Association.

60. The representatives or associates of the Borstal Association are drawn from all classes. Paid workers are remunerated sometimes by fixed salary, sometimes by fees per case. In London some agents are *ex*-police inspectors who receive £3 10*s.* a week. When the remuneration is by fee, three shillings is allowed for the first visit and one guinea a year afterwards, but the Association endeavours to avoid a fixed rate of fee as tending too much towards a routine performance of duty. In other parts of the country they include officials of other societies for the aid of discharged prisoners, police court missionaries, clergymen, volunteers engaged in social work and, in fact, any one ready to befriend and look after a youth or girl entrusted to his or her care. About half the workers are unpaid. The supervision exercised by the Borstal society's agents extends, properly speaking, only up to the end of the period of detention ordered by the court, and to one year further, but in practice they often continue their service and assistance much longer if the boy wishes it, and the Association generally endeavours to keep in touch with boys for five years after their release. No definite statistics are available to show the results in the case of boys whose period of detention and probation has expired, but the figures for the five-year period ending with 1914 are claimed to show 66.8 per cent. of successes. Since the commencement of the war it has been difficult to trace the further career of boys discharged from Borstal institutions as large numbers entered the Army.

Finances of the Association.

61. The finances of the Borstal Association are derived partly from private subscriptions and partly from Government grants, the Association receiving £2 sterling from the Government for every £1 sterling collected.

After-care at Polmont.

62. In Scotland there is no society answering to the Borstal Association, and the after-care of adolescent prisoners discharged from the Borstal institution at Polmont is arranged for by the authorities of the institution in conjunction with the Superintendent of Youthful Offenders, who is a paid official working directly under the Scottish Prison Commissioners. When a boy is recommended for release from Polmont the Superintendent of Youthful Offenders visits his home and endeavours to find some one willing to look after the boy. The person to whose care a released adolescent is thus confided is termed his guardian. No paid agents are employed, and no fee or remuneration of any kind is at present granted to guardians, but the opinion was expressed that power to grant a small recompense to deserving guardians would be useful. If there is any one interested in the family or the boy, he is asked to undertake the post of guardian. Of the fifteen boys on license at the time of our visit, two were Belgians who had been sent back to

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their country, five were employed in shipyards, three were farming, one was a carpenter and one an engineer, while the remaining three were employed in a coal-mine, a jute mill and a machine factory, respectively. All these boys were believed to be doing well. It will be observed that none had taken up tailoring or shoemaking. The trade unions object to a boy's entering a trade unless he has been through a regular course of apprenticeship, and it is often difficult for a boy to maintain himself during this period. Farming was considered to be one of the best openings for boys, but experience, both in Scotland and England, shows that town boys will not keep to the land even if they at first take up that occupation. When a boy goes to sea it was considered better that he should be placed in an ocean-going ship rather than in the coasting trade. The majority of boys released from the Scottish institution had done well but owing to the war there had been a difficulty in tracing boys, and as the institution was only opened in 1911 there were no pre-war figures such as exist in regard to the operations of the English Borstal Association.

After-care at Aylesbury.

63. The girls released from Aylesbury are assisted by the lady in charge of the female work of the Borstal Association, and we were informed that of 81 girls discharged in 1917, 46 had so far continued to behave satisfactorily, while 35 had not done well.

The 'Modified Borstal' system in England.

64. As the figures given in paragraphs 46 and 47 above indicate, only a small proportion of the adolescents sentenced to imprisonment in Great Britain ever reach a Borstal institution. The remainder undergo their sentences in jails and for their benefit statutory rules, dated 3rd August 1909, have been made by the Secretary of State, providing for the establishment of what is termed the 'Modified Borstal' system. This somewhat obscure title in effect denotes the rules which regulate the treatment of adolescent offenders in British prisons. The object is to apply, as far as practicable, the methods followed at Borstal institutions to offenders between the ages of sixteen and twenty-one who are kept in jail. These methods are said to be, shortly, (*i*) segregation from adult prisoners, and (*ii*) close individual attention and observation with a view to arresting the criminal habit (*a*) by discipline, (*b*) by sustained work, (*c*) by physical and mental training, and (*d*) by careful disposal on discharge. It is remarked that the shortness of sentence, of course, operates against any manifest result but that experience has shown that with lads of this age much can be effected by close personal interest and over-sight on the part not only of the prison authorities but also of voluntary workers, either members of the visiting committee or local residents co-opted for the purpose. It is added that "personal touch and interest and exhortation must be relied on far more than a rigid insistence on prison routine to get at the heart of these lads in order to divert them from criminal ways." A 'Borstal Committee' is to be established at each prison for the special care and supervision of all prisoners coming within the Modified Borstal system.

Practical working of the 'Modified Borstal' system.

65. The first prescription laid down for the so-called 'Modified Borstal' system is thus that of separation from the adult prisoner. This in practice may not amount to much more than the collection of the adolescents into a separate gang, working on a separate patch of the garden, or to their employment at the further end of a workroom in which adult prisoners are employed, and to their sleeping in a separate wing of the prison or at least on a different storey from the rest. This degree of separation is doubtless useful, but there are certain disadvantages connected with it. The rules provide that "the Star class classification will not apply," the result being that youths who have been convicted before are in communication with those who are in prison for the first time. There would doubtless be considerable practical difficulty in providing for the segregation of adolescents with previous convictions from others. The chaplain has been instructed to pay special attention to this class of prisoner, but otherwise no special machinery sems to have been provided for carrying out the close observation of and attention to the adolescent contemplated in the rules, and the treatment in this respect meted out to the juvenile adult did not apparently differ very much from that given to other prisoners. In view of the small number of prisoners of this class admitted to jail, it has been decided to concentrate these prisoners at certain centres, such as Liverpool, Bedford and Bristol, thus reducing the difficulty of providing the proper machinery for dealing with them. The shortness of the sentences makes much real reformatory influence impossible.

ANNEXURE I TO APPENDIX IX.

BORSTAL INSTITUTIONS—MALES.

The object of the Borstal system being, as defined in section 1 (*b*) of the Act of 1908, that those subject to it shall receive such instruction and discipline as appears most conducive to their reformation and to the repression of crime, the following methods will be adopted for giving effect to it. By a progressive stage system based upon and tested by a mark system, an inmate will be able, by industry and good conduct, in each stage to earn increasing privileges until he becomes eligible for the higher grades, probationary and special. On attaining the latter, the institution board, if satisfied that there is a reasonable probability that he will lead a useful and industrious life, and abstain from crime, will submit his name to the visiting committee for conditional licence to the care of the Borstal Association. The system aims at an intellectual, physical, and moral improvement and development of each inmate. The first will be secured by a carefully arranged educational system appropriate to the needs of each. The second by a methodical system of labour, which shall be, as far as possible, of an interesting and instructive kind analogous to the day of a free workman in full employment. Drill and gymnastics for the bodily development of inmates will be a leading feature of the system. Education and labour well organized will thus largely contribute to the "disciplinary and moral influences" referred to in section 4 of the Act. There will be, in addition, the moral precept and example of the staff, superior and subordinate. Each and all have a great trust confided to them, which is to raise the young criminal, by personal influences and wise exhortation, to a due sense of duties and responsibilities as a law-abiding citizen. The system will rest primarily on good discipline, firmly but kindly administered. In the obedience which follows from this is the beginning of moral improvement. This being secured, the system admits a wide latitude for trust and confidence in the later stages, whence will spring the sense of honour and self-respect. When this sentiment has been inculcated, the purpose of the Act may be said to be fulfilled, namely, the reformation of the offender, and, incidentally, the repression of crime, for if the criminal habit be arrested at the beginning, the supply of criminals in the later stages of their career is effectively stopped.

Instructions for carrying out the Regulations under the Prevention of Crime Act, 1908.

1. All inmates on reception will be placed in the ordinary grade, whence they will pass by progressive stages through a probationary to a special grade. There will also be a penal grade to which inmates may be reduced.

2. The ordinary grade will be sub-divided into five stages. While in the ordinary grade, there will be a daily record of conduct and industry. The ward officer, the party or trade officer, the drill instructor, and the schoolmaster will enter in the register the words "Very good," "Good," "Fair," or "Bad." Once a week this register will be examined by the governor, who will then allot marks for each day in figures, *viz.* :—"Very good," 3 marks; "Good," 2 marks; "Fair," 1 mark; "Bad," no marks. The full marks for a lunar month will, therefore, be 84. To this the institution board will have power to add 16 merit marks, making the monthly maximum 100 marks, and an inmate must earn 100 marks before he can pass from one stage to another, or 500 in all before he can pass out of the ordinary grade. When an inmate is in hospital, marks will be awarded according to the average of the previous week, provided that the medical officer recommends the award. The five stages of the ordinary grade will be as follows :—*First month.*—An inmate will work in association, but during his leisure hours he will remain in his room or cubicle, and opportunity will be taken for visitation by the staff, with a view to studying his disposition and character. No gratuity will be earned. *Second and third months.*—Association on Saturday afternoons and Sundays, and talking allowed. Chess, dominoes and draughts may be played in the hall or corridor. A gratuity may be earned for every 25 marks of sixpence in the second month, and of one shilling in the third month. *Fourth month.*—Meals in association and outdoor games within the institution boundary. A gratuity may be earned of 1*s.* 6*d.* for every 25 marks. *Probationary grade, one month,* during which inmates will be tested as to their fitness for entering the

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special grade, by being allowed to take part provisionally in some of the privileges of that grade. A gratuity may be earned of 2*s.* for every 25 marks.

3. *Special grade.*—If the month spent in the probationary grade is satisfactory, inmates will pass to the special grade if considered suitable by the institution board. They may (1) work without supervision ; (2) be allowed to associate in the evening for literary occupation, recreation, reading newspapers, etc. ; (3) have their meals in association, with superior service and crockery, under the supervision of monitors elected among themselves in the ratio of 1 for every 25 inmates, subject to the approval of the governor ; (4) enjoy outdoor games on Saturday afternoons ; (5) also earn a good conduct badge every three months, with a grant of 5*s.* for the first badge, 7*s.* 6*d.* for the second badge, and 10*s.* for each badge thereafter.

4. *Penal grade.*—Where an inmate is believed to be exercising a bad influence, he shall be placed by the governor in the penal grade, for such time as the governor considers necessary in the interest of the inmate himself, or others. While in the penal grade, an inmate will be employed in separation on hard and laborious work. He will earn no gratuity, and will forfeit the privilege of letters and visits. The governor will record in his journal particulars of every case ordered by him to be placed in the penal grade, with the reasons for the same, and stating the period during which an inmate is so retained. This record will be placed before the Commissioner at each visit. The inmate will not be restored to the special grade without passing through a period of probation in the ordinary grade of such duration as the governor may determine.

5. The gratuity earned in the ordinary grade will be placed at the disposal of the Borstal Association, who will make use of it for the inmate's benefit in such manner as they may consider most conducive to his welfare, or withhold it if there is reason to think that it may be misapplied. The badge money earned while in the special grade may be spent by inmates on educational books, instruments, or other approved objects, or sent to their relations.

6. An inmate will be allowed to write and receive letters and have visits as follows :—In the ordinary grade—for every 150 marks earned ; in the special grade—every four weeks. Visits will be of 30 minutes' duration for the ordinary and 40 minutes for the special grade, with reasonalile extension in any case at the discretion of the governor.

7. An inmate shall attend school from the date of his reception, and shall receive instruction for three consecutive hours on each of three mornings of each week. Every pupil will be examined at the end of each month, and, if able to pass out of the third standard, will be excused further attendance at morning school.

8. Where an inmate obviously fails to profit by instruction, and there may be reason to think that this may be due to physical or mental causes, he will be specially examined by the medical officer, and such steps will be taken on his report as may be deemed suitable to meet the special circumstances of the case.

9. In addition to the morning school, there will be educational classes on four evenings in each week. These will be directed to :—(*a*) the instruction of backward inmates ; (*b*) the maintaining of knowledge of those who have passed the third standard, but who are incapable of going higher ; (*c*) the instruction of those able to reach standards in advance of the third ; (*d*) the teaching of history, geography, and civic duty.

10. There will be a board of education, over which the chaplain will preside. It will be the authority to consider all questions connected with the education of inmates, and will decide, as the result of examination, into which standard in the morning school each inmate shall be placed on reception. In the event of a new inmate proving himself superior to the third standard, he will be placed at once in the evening school.

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11. In addition to their elementary education, inmates employed in the various industries shall be eligible for instruction in an "artisan's course," which shall consist of workshop arithmetic and drawing, with technical information adapted to their work.

12. No punishment or privation of any kind shall be awarded to an inmate by any officer of the institution except the governor, or, in his absence, the officer appointed to act for him.

13. An inmate shall be guilty of an offence against the discipline of the institution if he: (1) disobeys an order or rule; (2) treats an officer with disrespect; (3) is idle or careless at work; (4) is irreverent at Divine Service or prayers; (5) uses bad language, or threats; (6) is indecent in language, act or gesture; (7) strikes or behaves in a provoking way to another inmate; (8) makes a disturbance by singing, whistling or shouting; (9) does any damage; (10) has in his room, or cubicle, or dormitory, or in his pockets or clothes, anything he has not been given leave to have: nothing found on the works, or on the farm, may be picked up and kept; (11) receives anything from any other inmate, or gives anything to any inmate without leave; (12) misbehaves himself in any other way.

14. The governor may examine any person touching any alleged offence against the discipline of the institution, and determine thereupon and punish the offence.

15. In addition to the power vested in the governor for ordering an inmate to be placed in the penal grade (instruction 4), the above offences may be punished by him in the following way:—

(1) Deprivation of any of the following privileges:—(*a*) talking, (*b*) association, (*c*) playing games, (*d*) gratuity and badge money, (*e*) postponement of letters and visits.

(2) Loss of stage or grade.

(3) Close confinement for one day on a prescribed diet No. 1.

(4) Separate confinement in a gated cell for 14 days on a prescribed diet No. 2.

16. If an inmate is charged with any serious or repeated offence for which the punishment the governor is authorized to inflict is deemed insufficient, he shall be brought before the visiting committee, or one of them, who, in addition to any power vested in the governor, may order:—(1) close confinement for 3 days on a prescribed diet No. 1; (2) separate confinement in a gated cell for 28 days on a prescribed diet No. 2; (3) or, in the exercise of their discretion, may report him to the Secretary of State as incorrigible, or exercising a bad influence, with a view to his removal from the institution.

17. While under No. 2 diet, the inmate will be employed in separation on outdoor work, to be tasked with due regard to the dietary scale.

18. If any inmate is charged with:—(1) mutiny or incitement to mutiny, (2) gross personal violence to any officer or servant of the institution, the visiting committee have the power within the provisions of the Prison Act, 1898, to order corporal punishment in addition to, or in lieu of, their other powers of punishment.

19. Dietary punishment shall not be inflicted on any inmate, nor shall he be placed in close or separate confinement, nor shall corporal punishment be inflicted, unless the medical officer has certified that the inmate is in a fit condition of health to undergo the punishment.

20. Although in the ordinary course the institution board will not bring forward for licence any inmate who has not attained the special grade, yet cases will occur from time to time in which

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the institution board, in the exercise of their discretion, may think an earlier licence to be desirable. Such cases the board may, and should, recommend for licence at any time when they think it in the best interests of the inmate to do so. The essence of the Borstal system is that conditional licence can be granted when there is a reasonable probability that the offender will, if licensed, abstain from crime ; and although in most cases it is likely that the test of earning a sufficiency of marks for the special grade will be the best measure of reformation, yet the institution board will bear in mind the provisions of section 5, sub-section (1) of the Prevention of Crime Act, 1908, and can and will bring forward for licence any inmate as soon as he appears to them to satisfy the conditions of that sub-section.

21. Inmates whose licences have been revoked or forfeited are not entitled to earn gratuity, but the governor may specially submit any case to the Commissioners with such recommendation as he may desire to make.

22. The daily duties at a Borstal institution will be carried out in accordance with the approved time table.

23. Officers and inmates of Borstal institutions shall be subject to the Standing Orders for Local Prisons, except in so far as they are inconsistent with the regulations and instructions made under the Prevention of Crime Act, 1908.

ANNEXURE II TO APPENDIX IX.

BORSTAL INSTITUTIONS—FEMALES.

The object of the Borstal system being, as defined in section 1 (*b*) of the Act of 1908, that those subject to it shall receive such instruction and discipline as appears most conducive to their reformation and to the repression of crime, the following methods will be adopted for giving effect to it. Under section 5 (1) of the Act, a female offender may be discharged by licence from a Borstal institution *after three months from the commencement of the term of detention,* if the Commissioners are satisfied that there is a reasonable probability that she will abstain from crime, and lead a useful and industrious life. The object of the following regulations is to provide a test by which the Authorities on the spot, *i.e.,* the governor and the institution board, will be able to judge whether, or not, an inmate can be licensed on completing three months of her sentence. The period of three months is admittedly short, having regard to the provisions of the Act, which authorise detention for a maximum of three years. But it was the intention of Parliament, in prescribing the minimum period of three months in the case of females, to secure that they should be given a chance of liberty after completing that period, subject to the reasonable probability of their abstaining from crime. Experience has shown that perhaps in the great majority of cases a longer period of detention is necessary to enable any real reformatory influence to be exercised. The responsibility in this matter rests primarily on the institution board, and it is only by the closest personal observation of each case from the commencement of the sentence that a true and just opinion may be formed as to the date on which a licence may be properly and wisely granted. The key-note of the system is, therefore, the "individualization" of the inmate. It is in order to secure such individualization that the mark system, in its ordinary meaning, is abolished. By that is meant the system by which inmates earn marks *mechanically,* day by day, until a total is reached by which they pass from one stage to another. Under the system to be followed, there will be no mechanical entry of marks, as a daily record of conduct and industry. Each officer entrusted with the supervision of a party for any purpose will only enter in the register the words, "Very good," "Good," "Fair," or "Bad." Once a week, the institution board, in consultation with the governor, will have power to assign marks not exceeding 25 a week. Thus, an inmate, whose record is very good all round, would earn 150 marks in six weeks, and then be eligible to pass to a higher grade. It must be clearly understood that this assignment of merit marks will in no sense be mechanical, and will not be based entirely on the written comments of party officers. Inmates will be interviewed regularly—those doing well encouraged; those doing badly cautioned, and made clearly to understand that they will not be allowed the privilege of the higher grades until the institution board is completely satisfied that they are doing their best in every way to profit by the opportunities afforded. Each and all members of the staff have a great trust confided to them, which is to raise the young criminal, by personal influences and wise exhortation, to a due sense of duties and responsibilities as a law-abiding citizen. The system will rest primarily on good discipline, firmly but kindly administered. In the obedience which follows from this is the beginning of moral improvement. This being secured, the system admits a wide latitude for trust and confidence in the later stages, whence will spring the sense of honour and self-respect. When this sentiment has been inculcated, the purpose of the Act may be said to be fulfilled, namely, the reformation of the offender, and, incidentally, the repression of crime, for if the criminal habit be arrested at the beginning, the supply of criminals in the later stages of their career is effectively stopped.

2. *The Grading* will be as follows :—

Ordinary grade.—Inmates in the ordinary grade will be specially located. 25 merit marks per week may be awarded until 150 are reached. Inmates will undergo physical training, and, subject to educational requirements, will work in association during morning and afternoon, and in their rooms, in the evening. When, in the opinion of the governor, it is desirable, in the interests of health, that an inmate on reception shall be employed for part of the day on outdoor work on farm or garden, this may be arranged for selected cases, in lieu of morning or afternoon labour. The ordinary grade will be the deterrent or punitive period of detention, during which conversation except such as is incidental to their daily routine duties, will not be allowed.

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Probationary grade.—An inmate will pass, after earning 150 marks, to the probationary grade, which will be specially located, and will remain in that grade until she has earned a further 150 marks. During this period, she will be allowed meals in association and conversational exercise. When labour ceases in the afternoon, she will be permitted to change clothes for tea. Subject to educational requirements, classes, lectures, etc., she will be free for recreation either in a room with others, or for the purpose of private work, study, etc., in her own room. The rooms will be locked only at night. Arrangements will be made, if practicable, to place inmates under group matrons in convenient groups. Marching in parties to labour will cease. Each inmate will find her own way to work, etc., at the appointed time. The group matron will be responsible for seeing that the strictest punctuality is observed, and that at a given signal every inmate is in her proper place. An inmate's conduct and industry will be closely observed during this stage, and she will not be passed out of this stage until the institution board are fully satisfied that she is doing her best. When the institution board are so satisfied, she shall be passed into the special grade.

The special grade.—On passing into the special grade, an inmate's case will be specially considered for conditional licence. During the three months that have elapsed since reception, under the scheme detailed, it ought to be possible for the authorities on the spot to have formed an opinion whether, or not, as prescribed by section 5 (1) of the Act, there is a reasonable probability that an inmate will lead a useful and industrious life if let out on licence. Cases, of course, differ infinitely. The causes that led to the Borstal sentence may be deeply ingrained, thus requiring a long period of reformatory training, or they may be due more to circumstance than character, and if the criminal habit or tendency is not deep seated, it is hoped that in many cases, the period of three months' detention, under healthy influences, will furnish sufficient guarantee that a criminal course is not likely to be persisted in. In arriving at an opinion on this point, the institution board will, of course, avail themselves to the fullest extent of the services and experience of the representative of the Borstal Association. Such representative will, if possible, be a member of the visiting committee, and thus closely identified with the history of each case from the commencement of sentence. Inquiries made by the Borstal Association as to home surroundings, parental influence, capacity for any special branch of work, will furnish the guide to the authorities in their determination of each case. It is essential for the working of the system in accordance with Act of Parliament, that eligibility for licence after three months shall be fully recognized, and any method which may have been established by practice in the past for insisting on a mechanically fixed period of detention, irrespective of the character, capacity, and prospects of each individual case, will be discontinued. Inmates in the special grade will be specially located. Those not considered eligible for licence will, on passing into the special grade, be at once transferred to superior quarters, where they will be kept distinct from the main body, under a distinct body of officers, who will reside in quarters contiguous to such superior buildings. They will be known as the "honour party." In addition to the privileges enjoyed by the probationary grade, inmates in this grade will have a special dress : their mess-room and dwelling rooms will be supplied with superior crockery, and they will elect their own mess president of each table or section. A games-mistress shall be appointed for the supervision of games, in this and the probationary grade. Inmates may also organize dramatic and other entertainments, subject, of course, to the control of the authorities. The reading of newspapers will be allowed. There will be no marks assigned to inmates in the special grade. Inmates may earn a good conduct stripe for every three months passed with exemplary conduct, carrying 5*s.* gratuity for the first stripe, 7*s.* 6*d.* for the second stripe, and 10*s.* for each stripe thereafter up to a maximum of £2, half of which may be spent in purchase of articles for their own use, *e.g.*, material for private work, articles of clothing, etc. Inmates may, in addition to the privileges allowed in the probationary grade, be allowed outside the walls on parole, or to go errands, or to undertake work in the neighbourhood. They may also be employed in positions of trust in the establishment—clerical work, library, nursing, etc. Every case in the "honour party" will be specially considered every two months by the institution board, with a view to conditional licence. The behaviour of inmates on parole will furnish the test of trustworthiness, and by its appeal to higher instincts, on conduct or behaviour, will strengthen the probability of successful liberation. A careful study and individualization, therefore, of each inmate in state of parole or semi-liberty, will furnish the necessary evidence for determining her fitness for liberty.

Penal grade.—The sanction of the system will be the penal grade. This is an administrative, not a judicial, weapon in the hands of the governor, and her powers of degradation are unlimited. Strict separation in rooms, and loss of privilege, will be a sufficient deterrent for the unruly, combined with such ordinary punishment for occasional offences as the rules admit. Where an inmate

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is believed to be exercising a bad influence, she shall be placed by the governor in the penal grade, for such time as the governor considers necessary in the interest of the inmate herself, or others. She will earn no gratuity, and will forfeit the privilege of letters and visits. The governor will record in her journal particulars of every case ordered by her to be placed in the penal grade, with the reasons for the same, and stating the period during which an inmate is so retained. This record will be placed before the Commissioner or inspector at each visit. The inmate will not be restored to the special grade without passing through a period of probation in the ordinary grade of such duration as the governor may determine.

3. *Gratuity.*—There will be no gratuity earned in the ordinary way. Special gratuity may be earned at the rate of 3*s.* 6*d.* for every merit marks earned in the prohationary grade. This will be placed at the disposal of the Borstal Association, who will make use of it for the inmate's benefit in such manner as they may consider most conducive to her welfare, or withhold it if there is reason to think that it may be misapplied.

4. *Letters and visits.*—An inmate will be allowed to write and receive letters and have visits as follows :—In the ordinary grade—every six weeks ; in the probationary grade—every month ; in the special grade—visits monthly, letters fortnightly. Visits will be of 30 minutes' duration for the ordinary, and 40 minutes for the probationary and special grades, with reasonable extension in any case at the discretion of the governor.

5. *Education.—Elementary school.*—All inmates on reception will be examined, and the results will be recorded. Those able to pass out of standard III will be excused attendance at the elementary school. Those unable to pass out of standard III will commence their attendance at the elementary school from the date of reception ; will receive instruction on every morning of the week for 1½ hours, and be examined at the end of each month. All inmates will leave the elementary school on passing out of standard III. Examinations will be held monthly so as to ensure a proper flow of pupils to the evening school.

Evening school.—Every inmate who possesses the capacity of being raised to a higher standard than that of *ex*-III shall attend evening school as may be arranged. All the other inmates shall also attend evening school to prevent their falling below the average standard, at such times as may be arranged. Where an inmate obviously fails to profit by instruction, and there may be reason to think that this may be due to physical or mental causes, she will be specially examined by the medical officer, and such steps will be taken on her report as may be deemed suitable to meet the special circumstances of the case. Evening school will be held on four nights a week, and the classes will be directed to :—(*a*) higher instruction of those able to reach a standard in advance of standard III ; (*b*) instruction of backward inmates ; (*c*) teaching special subjects, *e.g.*, instruction in higher arithmetic, inmates in training for female clerkships, typewriting, shorthand, etc. There will be a board of education, over which the chaplain will preside. It will be the authority to consider all questions connected with the education of inmates, and will decide, as the result of examination, into which standard in the morning schools each inmate shall be placed on reception. In the event of a new inmate proving herself superior to the third standard, she will be placed at once in the evening school.

6. *Revoked licences.*—Inmates whose licences are revoked, if not removed to a special institution for such cases, will be placed in the penal grade for one month, and will work with their room doors open, and will be employed at any suitable form of manual labour. After one month, they may, at the discretion of the governor, be placed in the ordinary grade, and will be again removed to the penal grade if she is satisfied that the inmate is making no real effort to improve. Any such case will be recorded in the governor's journal, to be laid before the Commissioner or inspector at each visit. If no signs of improvement are manifest, the case will be submitted to the visiting committee for such action as may be desirable under section 7 of the Act of 1908. They will earn no gratuity, except on the special recommendation of the governor.

7. *Industrial training.*—It is desirable that after a close observation of character and capacity, a definite view should be taken as to the class of training—industrial, domestic, clerical, or other-

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wise—for which an inmate is best fitted, and that she should be specialized on this with a view to her employment on discharge. The comparatively short period of detention in some cases will not allow of a diversity of training. The wisdom of a constant change of employment is open to question, as not only tending to difficulty and confusion of internal administration, but failing in unity and concentration of effort, which has a steadying effect in dealing with idle and wayward characters. Farm and garden work, attending to poultry and cattle, will be a special feature of the establishment, and will require special training, which will be provided. The various garden spaces will also offer profitable employment and training under suitable instruction. In any place where there are garden plots, they will be kept with scrupulous care and neatness in all parts of the establishment. The grass will be kept closely mown, and flower beds placed in all appropriate spots. Officers will be given the option of cultivating the plots contiguous to their quarters, but failing this, it will be the duty of the inmates. Farm and garden work, though it can be assigned specifically as training for a certain number of inmates, is rather a valuable subsidiary employment, to be made use of largely on medical and physiological grounds for girls requiring active labour in the open air, or who are unsuitable for other forms of labour. For such reasons, there would be no objection to employing girls in the ordinary grade on such work for limited periods, or in the summer evenings in lieu of labour in their rooms, always provided that girls in this grade work under disciplinary supervision, which will be the differentia of this grade.

8. *Punishments.*—No punishment or privation of any kind shall be awarded to an inmate by any officer of the institution except the governor, or, in her absence, the officer appointed to act for her. An inmate shall be guilty of an offence against the discipline of the institution if she :—(1) disobeys any order or rule ; (2) treats an officer with disrespect ; (3) is idle or careless at work ; (4) is irreverent at Divine Service or prayers ; (5) uses bad language or threats ; (6) is indecent in language, act or gesture ; (7) strikes or behaves in a provoking way to another inmate ; (8) makes a disturbance by singing, whistling or shouting ; (9) does any damage ; (10) has in her room, or cubicle, or dormitory, or in her pockets or clothes, anything she has not been given leave to have : nothing found on the grounds, or on the farm, may be picked up and kept ; (11) receives anything from any other inmate, or gives anything to any inmate without leave ; (12) misbehaves herself in any other way. The governor may examine any person touching any alleged offence against the discipline of the institution, and determine thereupon and punish the offence. In addition to the power vested in the governor for ordering an inmate to be placed in the penal grade, the above offences may be punished in the following way :—(1) by deprivation of any privilege ; (2) loss of grade ; (3) confinement in room for one day on a prescribed diet No. 1 ; (4) segregation for a period not exceeding 14 days on a prescribed diet No. 2. If an inmate is charged with any serious or repeated offence for which the punishment the governor is authorized to inflict is deemed insufficient, she shall be brought before the visiting committee, or one of them, who, in addition to any power vested in the governor, may order :—(1) confinement in room for 3 days on a prescribed diet No. 1 ; (2) segregation for a period not exceeding 28 days on a prescribed diet No. 2 ; (3) or, in the exercise of their discretion, may report her to the Secretary of State as incorrigible, or exercising a bad influence, with a view to her removal from the institution.

9. The daily duties of a Borstal institution will be carried out in accordance with the approved time table. Officers and inmates of Borstal institutions shall be subject to the Standing Orders for Local Prisons, except in so far as they are inconsistent with the regulations and instructions made under the Prevention of Crime Act, 1908.

APPENDIX X.

NOTE ON THE INDETERMINATE SENTENCE AND THE SYSTEM OF RELEASE ON PAROLE, OR CONDITIONAL RELEASE, AS WORKED IN THE UNITED STATES AND OTHER COUNTRIES.

(Referred to in Chapter XVI, paragraph 449.)

Section I.—The Indeterminate Sentence in the United States.

Preliminary remarks.

1. Before attempting to set forth the results of our inquiries into the indeterminate sentence and the parole system in the United States of America, we wish to draw attention to two or three preliminary points. In the first place it is desirable to emphasise the fact that in the time at our disposal we were able to visit only a portion of the United States and to examine only a limited number of institutions, though we have reason to believe that they were representative of what is best in the American prison system. In the second place it should be remembered that it is not easy to generalise regarding American systems of criminal administration because of the differences which exist even between neighbouring States. Each of the forty-eight States included in the Union is a sovereign body, exercising supreme and final control in all matters except those which have been expressly reserved by the American Constitution to the Federal Government, and of these the administration of the criminal law is not one. Again, in the absence of a central government criminal statistics representative of the whole country are seldom obtainable, and thus one of the best tests of the comparative efficiency or otherwise of the administration of the criminal law cannot be applied. Finally, it is noteworthy that, with certain exceptions, the judiciary of the United States is not appointed, as in England or India, by a central authority nor does it hold office indefinitely during good behaviour, but is elected by a popular vote for a fixed term of years. That this system of elected judges involves certain disadvantages is admitted by the more thoughtful class of Americans, but it is so closely interwoven with the democratic character of the American Constitution that a change would be difficult to carry through. The law does not invariably require that the candidate for a judgeship in the United States must be a lawyer or possess any training in law, and the American judge may even have been a journalist or a merchant by profession, though the election of such persons would probably be rare.

Dissatisfaction with the determinate sentence in America.

In America, as in other countries, the system long prevailed under which, though the guilt or innocence of the accused might be decided by a jury, the judge determined the sentence which he should undergo, and this sentence was fixed and definite and, as far as possible, proportionate to the gravity of the crime. Gradually, dissatisfaction with this system of hard and fast penalties grew up. It was recognised in the first place that the object of punishment should not be so much to inflict retribution for the crime as to reform the criminal and to deter others from committing similar offences. It was further urged that if once it could be ascertained that the process of reformation was complete, there was no longer a necessity to retain the prisoner in confinement, while on the other hand to discharge an unreformed prisoner to prey on society was to invite the commission of fresh crime. The idea thus arose that instead of adjusting the punishment to the crime alone it should be adjusted to the criminal as well, and should be proportionate, not so much to the gravity of the offence, as to the need for reforming the offender.

Factors conducing to adoption of the indeterminate sentence.

3. These ideas regarding crime and punishment which made their appearance in America during the latter part of the nineteenth century received further support from other considerations. It was

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felt that, owing to differences in the temperament of individual judges and other accidental circumstances, there was much inequality in sentences, an inequality which created a sense of injustice in the minds of the prisoners affected by it. It was further urged that no judge, unless fully acquainted with the history of a prisoner, his heredity, his physical and mental history, his idiosyncracies and temperament, could expect to arrive at a true determination of the sentence which should be imposed for a given offence; and it was contended that in any case no one can safely predict the effect that punishment will have on a man or decide in advance the precise moment at which he can be released without danger to society. It is possible that these objections to the system of fixed or determinate sentences derived some additional support from the fact, which has been already noticed, that the American judiciary is elected by popular vote and is not so select or expert a body as in Great Britain. The then existing imperfections in the prison system of many of the States also tended in the same direction, and a strong movement gradually grew up in favour of an indeterminate sentence, in which the actual period of punishment to be undergone was settled not with reference merely to the crime but to the subsequent conduct and character of the prisoner and to the progress in reformation of which he gave evidence. It was proposed not to release a prisoner until he was fit for release and not to detain him after he had reached this assumed state of fitness. The task of deciding when this stage was reached was to be entrusted to a board, now commonly known as the parole board. This board naturally included representatives of the prison authorities who had had the opportunity of watching the prisoner's behaviour in prison; and in recognition of the fact that even the best informed board's decision must be liable to error, it was suggested that the release should be conditional, or as it is now termed in America, on parole, and that the prisoner should be liable to be recalled to prison if he broke the conditions or violated his parole.

Initial steps towards such adoption.

4. It is unnecessary to trace in detail the history of the progress of these ideas. Their first practical application in the shape of an indeterminate sentence appears to have occurred in the State of Michigan in 1867 when at the instance of Mr. F. R. Brockway, then Superintendent of the local prison at Detroit, a law was passed providing that while a prostitute might be sentenced to imprisonment for three years, the inspector of prisons should have power to liberate her at an earlier date, with or without conditions, on being assured of her desire to lead a better life. In 1877, Mr. Brockway, who had now been appointed Warden of the newly erected reformatory at Elmira in the State of New York, induced the legislature of that State to pass a statute declaring that a court, in sentencing a prisoner, should not fix the duration of the sentence, which should be left to the discretion of the prison authorities, always provided that the maximum fixed by statute for the particular offence should not be exceeded. Gradually the legislatures of other States followed the example thus set. By 1910 the indeterminate sentence had been adopted for one class of prisoner or another in twenty-one States of the American Union, and since then it has received still further extension. There are still wide variations in the manner and degree of the application of the principle of the indeterminate sentence, but it may be said without much fear of contradiction that it is now generally accepted throughout the United States. It may also be added that no State in which the principle has once been introduced has ever subsequently abandoned it and reverted to the fixed or determinate sentence.

American indeterminate sentence not wholly without limits.

5. It should here be pointed out that an indeterminate sentence is not necessarily a sentence wholly devoid of limits. Mr. Brockway's idea in 1877 was that prisoners should be sent to Elmira without any definition whatever of their term of imprisonment, leaving the duration entirely to the prison authorities. The legislature was, however, not prepared to give this unlimited authority into the hands of the executive. It refused to give power to the prison administration to detain a man indefinitely and it has always insisted on laying down in some way or other the maximum period for which a prisoner may be confined. It should also be remarked that in most States of the American Union certain offences are excluded from the operation of the system of indeterminate sentence. The offences most commonly excepted are murder and treason, but arson, rape, kidnapping and certain other serious crimes are also exceptions in some States.

Exhaustive description of systems not intended.

6. It would take too long to give an exhaustive description of the system in force in the various States of America, but we propose to sketch briefly the main features of the principle as it is at present applied in two or three of the areas which we visited.

Systems in New York State.

7. In New York State three different types of indeterminate sentence are in vogue :—

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(*i*) The first type is that found in the Elmira Reformatory which receives male offenders between sixteen and thirty years of age and convicted for the first time of felony. Such persons may be detained for the maximum period laid down in the penal code for the specific offence, but no minimum is prescribed and the Board of Management has full discretion to release a prisoner at any time it sees fit. As a matter of practice the Board has established a system of marking which is the principal factor in deciding when a prisoner is eligible for parole. Our inquiries showed that the minimum period qualifying for release is twelve months and twenty days, the average time at which prisoners are actually paroled is fourteen months, and the longest period recently served was twenty-four months. It will thus be seen that anyone sent to Elmira can reckon that he will probably get out again within fourteen months, and certainly within twenty-four. It may be observed in passing that it is doubtful whether such brief periods of incarceration are likely to prove sufficient to deter the potential criminal, or to reform the actual criminal.

(*ii*) The indeterminate sentence as applied to prisoners in State prisons was first introduced as a permissive alternative in 1889, but was never used until it was made mandatory in 1901. Under the law then passed a minimum of one year for all offences and a maximum varying with each offence were fixed in the statute and the judges were required themselves to determine within these limits their own minimum and maximum for each offender. It was found, however, that the judges sometimes defeated the intention of the law by fixing the minimum and maximum so close together that there was left nothing indeterminate about the sentence except the name. An amending Act was therefore passed in 1909 which required that a minimum sentence should not be more than half the maximum. The parole work of the prisons is now conducted by a parole board consisting of three members, of whom two are salaried, receiving three thousand six hundred dollars a year each, while the third is the superintendent of prisons who receives no additional salary for work done with the parole board.

(*iii*) The third kind of indeterminate sentence operating in New York State is based upon a law of 1915 which is applicable to all cities of the first class in the State, but has so far only been actually applied to New York City. This relates to persons sentenced to imprisonment in any penitentiary, workhouse or reformatory in the City. In the case of the penitentiary and reformatory every sentence is for an indefinite term subject to a maximum of three years, while in the case of the workhouse the sentence may be indeterminate and, if so, is subject to a maximum of two years. The Parole Commission has absolute discretion to release a prisoner from a reformatory or workhouse at any time after the commencement of the sentence, but it is required first to send to the committing judge notice of the time and place of the meeting at which the case will be disposed of, so as to give him an opportunity to express an opinion or make a suggestion regarding its disposal. In the case of prisoners committed to a penitentiary the parole board may similarly, at any time, make a recommendation in favour of parole to the committing judge, but his approval in writing is necessary before such recommendation becomes effective. This law, it will be noticed, in some ways more closely approaches the true indeterminate sentence than that in force in most other parts of the country. There is no special maximum fixed by statute or by the court for each offence but merely the general maximum of two years for all offences in the case of an inmate of a workhouse and of three years in the case of the inmate of a reformatory, or penitentiary. Nor is there any minimum. The parole board can release a prisoner on the day after the sentence is passed, provided that in the case of an inmate of a penitentiary, the sanction of the convicting judge must be obtained. It will further be noticed that as these provisions apply only to the classes of institution above mentioned, they do not cover the graver forms of crime which would be committed to a State prison.

System at Rahway, New Jersey.

8. We may here notice the system which is in force in the Rahway Reformatory in the neighbouring State of New Jersey. This institution is intended for persons between sixteen and thirty years of age and no one is admitted who has been previously in prison, though not infrequently the inmates have undergone one or more periods of probation for previous offences or even detention in this or other industrial institutions. The inmates are divided into four groups, A to D. In determining grouping, due weight is given to the inmate's mental and physical condition ; also to his previous history, social status and present offence. Grouping once fixed cannot be altered, as otherwise requests for revision would be frequent. Those in group A may be considered for parole after nine

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months, those in group B after twelve months, those in group C after fifteen months, and those in group D after eighteen months. As soon as a youth is admitted, he is carefully examined and his grouping decided ; he is informed of the group in which he is placed and of the time within which he will become eligible for parole, if his conduct and diligence are sufficiently good. It is thus within the inmate's power to shorten the period of his detention by good behaviour and industry and he is aware from the first that his stay in the reformatory largely depends on himself. It is true that he has no actual right to parole when he has secured a prescribed number of marks, but it is claimed that the system encourages a boy to behave well and to exert himself so as to become eligible.

Its main variation from the ordinary principle.

9. The above system, as in force in the Railway Reformatory, exhibits some general features which are common to most reformatories in the United States. inasmuch as adolescents are usually committed to most such institutions until they reach a fixed age of twenty-one, twenty-five or thirty. But, the system of fixing the period of detention in advance on a calculation of marks to be secured by good conduct and industry is of some interest as a variation from the ordinary principle of the indeterminate sentence.

The system in Indiana.

10. In the State of Indiana the indeterminate sentence does not at present apply to misdemeanours, and as applied to felonies it is of a pattern slightly different from any of those prevalent in New York. Putting on one side certain offences which are punishable with death, or imprisonment for life, the maximum and minimum penalties for other offences are laid down in the statutes, and the court, if it finds the accused guilty, has merely to define the offence of which he is convicted. The maximum and minimum periods of imprisonment then come into operation automatically. No question of release on parole can ordinarily arise until the prisoner has served the minimum sentence thus prescribed by law. When this has been served, the prisoner's case comes before the parole board which here consists of an experienced lawyer, two farmers and a journalist. This board does not by any means invariably release a man on parole when his case first comes up for consideration ; for example, there was a man in the prison with a sentence of from one to twenty years who had already been detained eight years. In this State the average period served by a life convict was said to be eight to nine years. We were told at the State Prison at Michigan City that though the minimum is in some cases only six months, no man is let out until he has to his credit a year's good conduct, good conduct being estimated by a system of merit marking. There is no regular system of remission in this State, and the method followed leaves a man with no information as to his progress towards the date of his release, which depends wholly on the decision of the board. It was further stated that if the board in particular cases feels a doubt as to how public opinion would view the release of a prisoner on parole, they consult the judge who tried the case ; and before deciding to release they usually endeavour to ascertain the views of the judge and the prosecuting attorney.

The system in California.

11. In the State of California the principle of the indeterminate sentence was introduced with effect from the 1st July 1917. A maximum and minimum period of imprisonment has been laid down by law for each crime and on conviction of any crime the prisoner becomes liable to that maximum and minimum without further specification by the court. In this respect the system in California resembles that in some other States, but in other respects fresh features have been introduced. As soon as the prisoner has served the minimum period fixed by law for his offence, his case comes before the parole board. Before this board are usually placed the previous record of the prisoner, the opinion of the judge who tried the case and of the prosecuting attorney, a report from the police and the recommendations of the prison officials. After considering this information, the parole board determines what further period, if any, should be regarded as the maximum term to be undergone by the prisoner. But even then the sentence continues to be indeterminate, for as soon as the man has served *half* this term, less remission, he may claim to be considered for parole. By way of remission, he is credited with two months per annum during the first two years served, four months per annum during the next two years and thereafter five months per annum. Thus a man convicted of an offence for which one year is the minimum and ten years the maximum, receives, if his conduct is satisfactory, three and a half years' remission, leaving six and a half years as the real maximum. As soon he has served the minimum of one year, the parole board considers the case and may either parole him at once or decide the further period that he should serve. If the board decides that the offender shall serve the maximum, he is liable to be detained in prison up to a total period of six and a half years, but as soon as he has served half of this period he may claim to be

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considered for parole, and should this be sanctioned by the parole board the period to be spent on parole is thus three and a quarter years. In the case of a life sentence the parole board may consider the question of parole as soon as the convict has served a clear period of six and a half years, but as soon as he has served half of this period he may claim to be remainder of the prisoner's natural life, unless he receives meantime a pardon from the Governor of the State. The parole board of California consists of five members who are appointed by the Governor of the State, and who constitute the State Board of Prison Directors. They are unpaid and hold office for ten years, retiring by rotation. At present four out of the five members are lawyers, thus providing a strong element of trained experience, but it will be noticed that the system has not been at work long and the task of getting men to undertake the heavy duties of the parole board without remuneration may yet prove a difficulty.

The system in Illinois.

12. In the State of Illinois the parole law was first passed in 1895 but has been amended several times since, especially in 1915, 1917 and 1919. In this State the sentences are now indeterminate for all crimes except murder, treason, rape and kidnapping. In regard to these four crimes a fixed and definite sentence is allotted by the jury, but in regard to all other crimes a minimum and maximum sentence has been laid down by statute, and on a man's being convicted of any crime he becomes automatically liable to the statutory sentence applicable to his offence. At the time of commitment a report on the case is sent in to the prison authorities by the prosecuting attorney together with the comments of the judge. There is a remission system under which the prisoner receives remission provided his conduct in prison is satisfactory, and a record of his prison career is thus kept continuously up to date. In the case of offences for which a determinate sentence is awarded, if the sentence is for life the man can be paroled after serving twenty years, or if for less than life, when one-third of the sentence is completed. Where, however, the sentence is indeterminate, as soon as the man has served the minimum sentence prescribed by law less remission earned, his case comes up for hearing before the parole board, which may either at once order the man's release on parole, may defer consideration of the matter or declare that the prisoner shall serve the full maximum, such a declaration, however, forming no bar to reconsideration later. The board which is entrusted with the task of declaring how long a prisoner must serve now consists of three persons, one a judge, one the State superintendent of prisons and the third a non-official, the present incumbent being an ex-journalist. In this State also the judge and State attorney are consulted before the case is dealt with by the Board.

Summary of systems examined.

13. To sum up the information set out in the foregoing paragraphs, the following statement shows in tabular form the main varieties of the indeterminate sentence :—

A. Maximum and minimum for each offence fixed by statute.	
(*a*) Parole granted by parole board without fixed system of remission	India.
(*b*) Parole granted by parole board after taking account of remission	Illinois
(*c*) Further period of imprisonment fixed by parole board on completion of minimum sentence and parole admissible when half such further period less remission has been served	California.
B. Maximum for each offence fixed by statute, but not the minimum	New York State, Type 1.
C. Maximum for each offence fixed by statute and a general minimum of one year for all offences but minimum cannot be more than half the maximum	New York State, Type 2.
D. No maximum or minimum for each offence fixed by statute but a general maximum for all offences and no minimum ..	New York State, Type 3.

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14. The brief account given above shows the various forms of indeterminate sentence that came under our personal observation. It by no means exhausts all the forms of indeterminate sentence prevalent in the country, but so far as we were able to learn the systems in force elsewhere followed, in their main outlines, one or other of the types described with only minor variations.

Minor variations in other States.

15. The subject of the indeterminate sentence came under discussion at the Sixth International Penitentiary Congress held at Brussels in August, 1900. At that time the principle had not attained the wide extension it has since secured and had received litle recognition outside the United States, and the idea was not accepted in its entirety on this occasion. The conclusions of the Congress are summarised by Sis Evelyn Ruggles-Brise in the following words :—"There was an almost unanimous hostility to the idea of applying the principle, which was pronounced to be *inadmissible* as an ordinary form of punishment ; the objects which it claimed to secure being as well obtainable by a system of conditional liberation, combined with a progressive lengthening of sentences for old offenders. As a measure of education and of safety, it was only admissible under such restrictions as logically involved the abandonment of the principle ; and it would be more logical, more simple, and more practical to adhere to the existing system of long detention with the corrective of conditional discharge ; and that so far as the insane are concerned, the principle must pervail ; but there is no question of a strictly *penal* treatment in such cases."

The Brussels Congress of 1900 and the Indeterminate sentence.

16. Before the Eighth International Penitentiary Congress met at Washington in October 1910 the application of the principle of the indeterminate sentence had received much wider extension in America. It now applied almost universally to inmates of States reformatories wherever created—*i.e.*, persons between the ages of sixteen and thirty (and in some cases thirty-five) guilty of grave crime, subject to the condition that they are not known to have been previously convicted of felony. In some States it applied to the ordinary State prisoners, *i.e.*, persons guilty of grave crime, of all ages, whatever their previous record might be. Thus six States had adopted the system for their State prisons and in thirteen States the court had the option of committing either for definite or indefinite terms and the practical experience of the working of the system had greatly increased. The discussion at this Congress showed a considerable modification of the attitude of the penological experts of the world towards this question since the Congress of 1900, and their final decision was couched in the following studiedly cautious terms :—"The Congress approves the scientific principle of the 'Indeterminate' sentence. The Indeterminate sentence should be applied to moral and to mental 'defectives.' It should be applied also, as an important part of the reformatory system, to criminals who require reformation, and whose delinquencies are due chiefly to circumstances of an individual character. The introduction of the system should be conditioned as follows :—

The Washington Congress of 1910.

(*i*) That the prevailing notions of guilt and punishment are compatible with the principle of the 'Indeterminate' sentence.

(*ii*) That an individualised treatment of the offender be assured.

(*iii*) That the board of parole be so constituted as to exclude all outside influences, and should consist of a Commission on which would serve at least one representative of the magistracy, of the prison administration, and of medical science, respectively.

(*iv*) That it is advisable to inflict the maximum penalty only in cases where it may be necessary, either on account of the novelty of the experiment, or a lack of experience."

Since then the principle of the indeterminate sentence has received still wider extension in the United States and its acceptance, though in guarded and limited terms, by the International Congress furnishes evidence of the progress which the idea has made in recent years.

Section II.—The Parole System, or System of Conditional Release in the United States.

17. In the above remarks reference has repeatedly been made to the system of parole which in the United States of America is, so far as we are aware, invariably associated with the indeterminate sentence, and some description of the parole system as it is worked in America must now be given. Theoretically, the parole system is not an essential condition of the indeterminate sentence,

Parole an important feature of the system.

Appendix X.—Note on the Indeterminate Sentence.

and it is possible to contemplate the working of the indeterminate sentence without a system of parole. In practice, however, the advantages of parole are beyond dispute, and this is especially the case where there is any tendency to release prisoners as a matter of course at the expiry of the minimum period of their sentence.

Essential features of parole system.

18. The essential feature of the parole system is that the prisoner's release is conditional, and is liable to be reconsidered, and the prisoner to be re-arrested and recommitted to prison, there to serve out the unexpired portion of his sentence, for any breach of the conditions of parole. Before a prisoner is released on parole it is the general practice to require him to put in an application for such release, thus making him a party to the arrangement, and he has to sign an agreement setting forth the conditions which he accepts. This agreement binds him to proceed at once to the employment which has been obtained for him and to report himself to his employer. He is not allowed to leave this employment without first obtaining the permission of the parole officer, and he is usually also required not to change the lodgings which have been secured for him without similar permission. He is bound to observe certain conditions of good behaviour, *e.g.*, he must not associate with bad companions or frequent improper places of amusement. In some States he is further prohibited from using liquor and from owning or carrying firearms, and in others he is not allowed to marry without permission. He is required to send in a monthly report showing how he has been employed, how much he has earned and so on, and this has usually to be countersigned by his employer or some other responsible person. In return for compliance with these conditions the parole board undertakes to give him any reasonable assistance to re-establish himself in society. Suitable employment and lodgings are always found for him before he is released, and the employer is often called upon to sign an agreement promising definite terms of employment to the released prisoner and undertaking to report to the parole board any breach of condition committed by the prisoner.

Effect of breach of conditions.

19. The period for which these agreements hold good and within which the prisoner is liable, on breach of condition, to be re-arrested and recommitted to prison varies in different States or institutions. In some the period is six months, in others a year, and in others two years or even longer, but in no case can it extend beyond the maximum term of the original sentence. When that has expired, or when the period of parole as fixed in the parole bond is complete, the original sentence is fully liquidated, and the prisoner can only be re-arrested for fresh offences. Throughout the parole period he is regarded as in the legal custody of the prison authorities who can arrest him without any fresh process for violation of his parole agreement, and from the date of violation of parole the prisoner ceases to earn time towards satisfaction of his sentence, and if rearrested and returned to prison he is liable to serve the full period remaining unexpired on the date of such violation.

Importance attached to psychiatric examination.

20. In some institutions of the United States of America there have been introduced of late years specially devised methods of psychological and mental examination. It is claimed that these methods are essential for the proper determination of the question of the fitness of any prisoner for release under the indeterminate sentence. Many authorities in America consider that this system should be still more widely introduced and insist that it is essential to the satisfactory working of the parole system. Thus the Prison Association of New York in its Annual Report for 1918 writes as follows :—" The diagnosis of the scientist is indispensable to a proper decision as to the duration of imprisonment, and as to the methods to be pursued in the individual treatment. The psychiatrist should play an important part in the decision as to eligibility for parole. There should be before the paroling body a full psychological and psychiatric study of the individual. And on parole itself the inmate should not escape the proper attention of the scientific eye. The new conditions of environment react upon the inmate's mentality, and many a paroled inmate requires steadying and help of an order other than the securing of a job or the clasp of a friendly hand. In short, the indeterminate sentence, parole and the psychiatric clinic are component parts of the new treatment of delinquents."

Parole officers.

21. For the proper carrying out of this system it is evident that some machinery must be provided, both to give the released prisoner such advice and assistance as he may require and to see that he duly fulfils the conditions of the parole bond. In the United States the use of the police for these purposes has been very generally abandoned and their place has been taken by a special staff working under the parole board and known generally as

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parole officers. It is the function of the parole officer not only to supervise the released prisoner, but to befriend him and to take a close personal interest in his welfare. The parole officer is usually expected to pay the paroled prisoner regular periodical visits, to satisfy himself that the man is receiving fair treatment from his employer, and to enquire into any complaints which the prisoner may lay before him. On the other hand, he has to see that none of the conditions of the parole bond are broken by the ex-prisoner and for this purpose to keep himself informed as to the man's mode of life and general conduct. It is the duty of the officer to report any breach of the parole to the board, and it is for them to decide whether the violation is such as to demand cancellation of the parole agreement and the recommittal of the prisoner to prison. It is evident from the above description that the duties of a parole officer are of a very responsible nature, and that if he is to perform them properly he must not be required to supervise too large a number of prisoners on parole at one time. The maximum number that can be undertaken depends partly on the area over which the prisoners are distributed but it was generally agreed that no parole officer can efficiently supervise more than seventy-five prisoners, while some authorities placed the maximum at fifty. The pay of a parole officer is usually from one hundred to two hundred dollars a month, the chief parole officer (where one exists) being paid usually about two hundred and fifty dollars a month.

Defects of the system.

22. Having given this brief description of the indeterminate sentence and the parole system as we found it in the United States, we may be permitted to indicate a few points of seeming weakness in the working of the system that came to our notice, and in order to show that enlightened American opinion is alive to these defects, we shall make a few quotations from American authorities in support of our contentions.

The composition of parole boards.

23. In the first place, we would draw attention to the character of the tribunal which performs the functions of a parole board and makes the vital decision as to the proper moment for the release of the prisoner. This tribunal is usually appointed by the Governor of the State, but, even so, political considerations are liable in a country like America to influence the selection, and we found farmers, merchants and journalists, innocent of all legal training or experience and sometimes without any previous acquaintance with the principles of penology, entrusted with these responsible duties. It seems to us that for the proper discharge of such functions some acquaintance with the principles of criminal law, some experience of the appreciation of evidence, and if possible, some knowledge of criminals are qualifications of great importance.

Tendency to automatic release after minimum period.

24. In the second place, the decision as to when a prisoner can safely be released from prison and placed on parole should be arrived at with reference to the circumstances of each individual case, including the man's personal history before and after the commission of his crime, and his existing mental and physical condition, and not by any mechanical system of merit marks or in accordance with any hard and fast rules. In some States and institutions in America there seemed to be a tendency to release prisoners almost automatically at the expiration of the minimum period of the sentence or within a very brief time afterwards. This tendency has already attracted unfavourable notice in America. Thus a Commission appointed in the State of New Jersey to investigate the penal, reformatory and correctional institutions of the State wrote as follows:—"The inmate of the State prison regards the minimum sentence imposed by the court as his actual sentence. The maximum prescribed has no meaning for him. This is equally the attitude of the prison authorities. If they think at all of the purpose of the law—to keep the wrong-doer in confinement until he has become a new man and has ceased to be a menace to the community—they ignore it or assume that the negative attitude of passive obedience to prison rules is sufficient evidence of reformation." Again, the Prison Association of New York in criticising the work of the Parole Board of the State of New York during the year 1916 wrote in the following terms :—"During the fiscal year ending September 30th, 1916, 1,369 applications for parole were made by inmates. Of these 1,008, or three out of every four were granted. More than 91 per cent. of the 1,028 persons on parole at the time of this survey" (made by the Prison Association on the 22nd November 1916) "had been released either immediately upon the expiration of their minimum sentences or within one month of the expiration of the same. In short, it may fairly be said that at the present time *the minimum sentence to State prisons represented practically the length of imprisonment to be undergone by the inmate.* It is hardly possible, on the other hand, that ninety-one per cent. of the men in prisons are sufficiently similar in character, training or other physical or mental conditions as to justify

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the almost automatic release of nine out of ten applicants practically at the expiration of the shortest term during which they were held in prison". (Seventy-second Annual Report of the Prison Association of New York, pages 78-9.)

Average period of detention before release too brief.

25. In illustration of the tendency above referred to, it may be stated that in the case of the Rahway Reformatory in New Jersey, where the minimum period in which a man can become eligible for parole varies from nine to eighteen months, we were told that the average time after which a prisoner is actually released is fifteen months, while in the case of the Elmira Reformatory the minimum period after which a prisoner becomes eligible for parole is estimated at twelve months and twenty days, while the average period after which he is actually released is fourteen months, and the longest period for which any prisoner has been detained in recent years is twenty-four months. If the indeterminate sentence results in prisoners being released almost automatically at or within a few months of, the expiry of the minimum sentence, the chief merits claimed for it disappear, consideration of the merits of each individual case ceases to be a reality and in fact many of the objections urged against the system of fixed sentences become applicable, with added force, to the indeterminate sentence thus carried out.

Defects not inherent in principle.

26. It does not, however, appear to us that these defects are at all inherent in the principle. If the parole board deals with each case on its merits, and not as a mere matter of routine, the results noticed above cannot follow. We were, indeed, assured that in some States the adoption of the indeterminate sentence, instead of shortening the average terms of imprisonment, had produced the contrary result. Mr. Amos W. Butler, the veteran Secretary of the Indiana Board of Correction, supplied us with the following figures relative to that State, and though it was admitted that the increased average period of imprisonment was partly due to the inclusion in the figures of mental defectives who are detained longer than other prisoners, the comparison is not without interest :—

Table showing average time served in the Indiana State Prison under Definite sentence as compared with Indeterminate sentence.

Crime.	Number of men.	Average period served.		
		Definite sentence 1890.	Indeterminate sentence 1900.	Indeterminate sentence 1906.
		Y. M. D.	Y. M. D.	Y. M. D.
Petit larceny	110	1 2 10	1 11 26	2 5 6
Grand larceny	77	1 10 12	2 10 13	2 11 26
Burglary	62	2 4 17	3 1 23	4 9 2
Assault and battery to kill	14	2 11 0	2 6 1	3 6 2
Forgery	11	2 0 27	2 2 23	2 8 10
Receiving stolen goods	6	0 11 0	1 8 11	3 6 5
Rape	6	2 3 10	3 1 0	3 0 9
Perjury	4	1 10 22	2 2 22	2 2 19
Manslaughter	4	1 9 0	4 4 18	2 6 10
Arson	4	3 6 7	1 7 10	3 6 12
False-pretence	4	1 6 7	1 9 20	2 6 9
Incest	2	1 9 0	3 3 16	4 6 0
Total ...	304	2 0 2	2 6 25	3 2 7

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Instances of increased period of detention.

27. The conclusion suggested by the above figures is supported by the Report of the American Prison Association Annual Congress, 1915, which at page 170 contains the following remarks:—"A similar study of three groups of commitments to the Indiana Reformatory was made—the last three hundred under the definite sentence, and the first and second groups of three hundred each under the indeterminate sentence. Compared with the first group the second group served an average of seven months and fourteen days longer, the third group one year, two months and fourteen days longre." In the State of Illinois an examination of the average sentences undergone for the offence of robbery with a weapon suggested a similar conclusion in regard to that State. This appears from the following figures:—

	Average sentence.		
	Y.	M.	D.
During the last five years in which a Definite sentence was in operation	1	9	6
During the five years ending 1914	3	6	19
In 1915	4	3	27
In 1916	6	1	2
In 1917	6	10	28

Without guaranteeing the accuracy of these statistics we think that they indicate that, if properly administered, the adoption of the indeterminate sentence coupled with parole does not necessarily lead to a reduction in the period of imprisonment undergone, but the condition of affairs in some of the States of the American Union indicates a danger which should be guarded against.

Period of parole frequently too short.

28. A third matter in regard to which the working of the indeterminate sentence and parole system in the United States of America seemed to be open to some criticism was the shortness of the period during which a released prisoner is retained on parole. As already stated, this period in some instances is only six month. Thus, in the case of the Elmira Reformatory, the parole period has only lately been raised from six months to one year, or, in cases in which a prisoner has already been guilty of a violation of his parole, to two years. Even granting that the greatest danger of relapse is during the period immediately following release, and that if a man maintains a uniform course of good conduct for a year, the chances of his subsequently falling back are sensibly diminished, it seems to us that where a long period of sentence has still to be undergone at the date of release, a substantial portion of it should be passed on parole. In some States of the American Union the parole period is varied according as the behaviour of the man on parole is good or otherwise, and this is a possible method of dealing with the matter.

Proportion of parole officers to paroled prisoners.

29. Reference has already been made to the proportion which parole officers should bear to the number of prisoners on parole. It is commonly admitted by authoritative opinion in the United States that in many cases the staff provided has been in the past, and in some instances is still, inadequate. Thus, in 1915 the New York State Commission on Prisons pointed out that while some four thousand persons were being annually released on parole, the State provided for their supervision only twenty-five parole officers. A little later the New York Prison Association wrote:—"On the 22nd November 1916 there were only three parole officers employed by the State Board of Parole. These three officers had, theoretically, 1,028 prisoners under supervision. This was an impossible situation, and in fact, the three parole officers did not function as parole officers. Their work was confined to the investigation of offers of employment to prisoners about to be released, and to general clerical work within the prisons which was more or less related to the work of the State Parole Board. What the State did not do at all—in one of the most highly important branches of remedial and constructive work for prisoners—private charitable societies and charitably inclined persons attempted to do as best they could. Of the 1,028 persons on parole at the time of the survey, the Catholic Protective Society supervised 37.6 per cent., the Prison

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Association of New York 18.3 per cent., and the Jewish Protectory and Aid Society 10.8 per cent. The private charitable organisations are also seriously hampered by insufficient staffs. The Prison Association, for instance, has for some two hundred paroled inmates only one parole officer giving full time to this work, and an employment secretary who gives a certain part of his time." (Necessary Next Steps in the Treatment of Delinquents, 1918, page 39.) The City of New York, under the recently formed Department of Correction and Parole Commission dealing with the minor offenders of that City, had secured in 1917 a staff of one chief parole officer and thirty-five parole officers for an estimated parole population of 4,575.

Paucity of parole officers in certain States.

30. At the Joliet Prison in Illinois there were until recently only eight parole officers to supervise two thousand released prisoners, and though an increase to twenty has now been sanctioned, even that number is hardly adequate. We found the same proportion of one parole officer to one hundred persons at both the Michigan City Prison of Indiana and the San Quentin Prison of California, while in another case a single parole officer is provided for three hundred and fifty persons on parole, and in yet another two parole officers were provided for 860 persons. It seems obvious that under such conditions the parole system is not being given a fair chance.

Percentage of success claimed in parole cases.

31. We have already referred to the difficulty of obtaining complete and accurate statistics bearing on prison matters in the United States of America. Figures showing the growth of crime are apparently not to be found in any of the published statistics of the United States, and it seems therefore to be impracticable to form any opinion as to whether crime has increased out of proportion to the growth in population in those States in which the indeterminate sentence has been introduced. Even as to the working of the parole system itself only partial figures are available, and in the absence of any really uniform system, whether of release or of the period to be spent on parole, no conclusion of much value can be based on such figures as we obtained. At the Rahway Reformatory in New Jersey we were told that out of 3,822 boys paroled in ten years 3,000 or 78 per cent. had satisfactorily completed their parole, and the Warden confidently believed that 65 per cent. settled down to be good citizens. At Elmira, the Warden stated that out of 16,000 persons paroled in the past five years 67 per cent. had proved successful, but these figures were based on a parole period of only six months. At the San Quentin Prison, California, it was stated that since 1893, 21 per cent. of the persons released on parole had failed to make good, and of these failures only 5 per cent. had committed fresh offences, the rest having been re-arrested for breach of the condition of parole. The general effect of the figures seems to justify the belief that from 70 to 75 per cent. of the prisoners released on parole go through the parole period without being recommitted. The following statistics are some of the most complete which we received:—

1. Statement showing results of the parole system in the case of persons released from the State Prison at Joliet, State of Illinois.

Year.	Number paroled.	Returned for violation.		Returned upon conviction for new crime.	
		Number.	Per cent.	Number.	Per cent.
1913	357	83	23·0	10	2·8
1914	390	100	25·3	15	3·8
1915	498	86	17·3	12	2·5
1916	414	101	24·4	11	2·6
1917	446	91	20·6	19	4·2

(Report of the Directors under the Civil Administration Code for the year 1918, page 273.)

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II. *Statement showing the operations of the Indeterminate sentence and Parole Law—1st April 1897 to 30th September 1918, in the State of Indiana.*

	State Prison, Michigan City.	Reformatory, Jefferson-ville.	Women's Prison, Indianapolis.	Total.
Total number released on parole ...	4,872	7,186	374	12,432
Returned for violation	856	934	99	1,889
Delinquent and at large	475	923	42	1,440
Served parole and granted discharge ...	2,975	4,464	174	7,613
Sentence expired during parole ...	141	242	26	409
Pardoned by Governor while on parole ...	...	47	3	50
Died while on parole	74	105	9	188
Reporting 30th September 1918 ...	351	471	21	843
Total ...	4,872	7,186	374	12,432
Percentage of unsatisfactory cases ...	27·3	25·3	37·7	26·7
Earnings of paroled prisoners ...	$ 1,523,937·20	$ 2,143,338·50	$ 9,833·3.*	$ 3,680,159·06
Expenses while on parole	$ 1,191,650·00	$ 1,782,567·35	$ 6,511·45	$ 2,980,728·80
Savings	$ 332,337·20	$ 363,771·16	$ 3,321·91	$ 699,430·26

* These figures do not include any allowance for board. Many of the women are paroled to their own people, and do not receive wages.

(Annual Report of the Board of State Charities of Indiana, 1918, page 129.)

Section III.—The Indeterminate Sentence and the Parole System in other Countries.

The Transvaal.

32. The principle of the indeterminate system and of conditional release is not confined to the United States. It is found in various forms in other countries. Thus, in the Transvaal it is applied specially to old offenders and provides for their indefinite detention in jail unless paroled. The law provides that any criminal who has committed in any country or at any time three or more grave crimes, such as brigandage, arson, fraud, counterfeiting, theft, concealing stolen goods, extortion, rape, etc., may be given an indeterminate sentence without maximum or minimum period. The convict may, however, be liberated on parole. "Each institution is to have a board of visitors to whom the director will annually present a written report on each prisoner. The law provides for probation and for a commission of surveillance, composed of the director of the house of detention, who acts as president, two of the citizens of good repute, the inspector of prisons and the consulting physician of the principal penal establishment. The chief judge of the Transvaal has an equal consulting voice in the commission and all the papers are submitted to him. No one whose duty it is to have active guardianship of the convict is allowed to sit on the commission. Upon the favourable report of the commission the Governor can release the inveterate criminal on probation." (Report of the American Prison Association, 1910, page 236.)

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France.

33. In France the system exists in a different form. In that country under a law of 1885 any one who is not pronounced by law to be a recidivist may be conditionally released after three months if the sentence is for six months and in other cases after the expiry of half the sentence. Recidivists are required to serve two-thirds of their sentence. Persons thus released are under the surveillance of the public administration which may confide them to the care of any society or guardian institution, and they may be re-arrested and re-committed to prison for breach of any of the rules or conditions of release or for habitual and public misconduct, the authority sanctioning both release and re-arrest being the Minister of the Interior, acting through the prison administration. This law has, for several reasons, had a very limited operation, having been applied during the five years from 1905 to 1910 to only one per cent. of the prisoners sentenced to imprisonment. This is partly due to the fact that so much delay is involved in making the prescribed references to different authorities, *e.g.*, the committing magistrate, the police, etc., that it cannot be applied in the case of short sentences. Moreover, conditions of residence have been prescribed which make it difficult for a man to earn his living. The system is also defective in that it is not combined with a proper system of marks for good conduct and industry in prison. In so far, however, as it has been applied it is reported to have worked well, only two per cent. of the prisoners dealt with under it having committed fresh crime, while among other prisoners the proportion was 40 per cent.

Norway.

34. In Norway convicts are eligible for conditional release after the expiration of two-thirds of their sentence, subject to a minimum detention of six months. Release cannot be refused arbitrarily, but unsatisfactory conduct renders a man ineligible, and he is also ineligible if it appears that he will not earn his living in an honest manner outside. If a man conditionally released again offends he is no longer eligible. A man so released is under police supervision and conditions as to residence, etc., are imposed. If a man breaks his parole he must be warned by the police and if that produces no effect he is reported by them to the Minister of Justice who decides whether he shall be re-imprisoned. It is claimed that there was less recidivism among those conditionally released than among others.

Holland.

35. In Holland there are somewhat similar arrangements, but there a prisoner must have served three-quarters of his sentence, subject to a minimum period of detention of three years. The release is at the discretion of the Minister, who also obtains the opinion of the sentencing court. No special effort is made to find the man employment and he remains under police surveillance. After a year's conditional liberation the man is usually finally released.

New South Wales.

36. Under Act No. 15 of 1905 of the New South Wales legislature, any person who is again convicted of sexual offences, abortion or poisoning after two previous convictions for a similar offence, and any person who is again convicted of wounding, robbery, extortion, burglary, larceny, embezzlement, false pretences, arson, forgery or coinage after three previous convictions for a similar offence, may be declared by the court to be a habitual criminal. When a person is thus declared a habitual offender, he has first to undergo such substantive sentence as the court imposes and is then detained during His Majesty's pleasure in some place of confinement set apart for the purpose. During this detention he must work at some trade or avocation but is entitled to half the proceeds of what he produces. If released he has for the space of two years to report his address and occupation to the police. If he is found by a court to have failed in this, or is believed by the court to be getting his livelihood by dishonest means, or is convicted of an offence, the court may direct, in addition to any other penalty, that he be re-committed to the place of confinement. Otherwise after two years he ceases to be a habitual criminal in the eyes of the law. Habitual criminals undergoing detention go through two stages, the first definite and the second indeterminate. When the indeterminate stage is reached, the prisoner is first placed in an intermediate grade from which he can rise to the higher and special grades after periods of two and three years respectively if his behaviour is irreproachable; and it is not until he has reached the special grade that he becomes eligible for consideration for release, though not of course entitled to it. If re-committed he can reach the position of eligibility in a considerably shorter period. Privileges in the matter of the purchase of various extras from the prison stores, longer visits, more frequent letters, etc., are allowed in these grades and those in the special grade are permitted to associate for recreation under supervision outside working hours. Prisoners who misbehave may be put down to a lower grade, which is sub-divided into penal and ordinary, and there they lose all the privileges until again promoted. The

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question of release depends upon the recommendations of a consultative body composed of the visiting officers of the jail, the governor of the prison, with any other person from time to time appointed by the Comptroller-general of prisons.

Results in New South Wales.

37. From the references made in the annual reports, the general conduct and industry of the prisoners brought under the operation of this system seem to have been quite satisfactory. Thus in the report for 1914 the following remarks occur :—"With one or two exceptions the general behaviour of the habitual criminals compares most favourably with any class of prisoner, and this is most satisfactory considering the histories and nature of their detention. They have usually had long criminal careers, and are detained for offences which cover the whole of the offences (excepting murder) comprising the criminal code. Many of these men have been noted for their inclination to cause trouble when serving previous sentences, but under present conditions they have settled down to make the best of matters, and earn by exemplary conduct their release from prison." Twelve men in the indeterminate stage during 1917 had at their credit earnings ranging from £5 to £155 and aggregating £423, equivalent to an average of £35 : 5. The Comptroller-general of Prisons pointed out that though attempts were made to prevent squandering of these sums on release by doling them out at weekly intervals, they were not in all cases successful. On the other hand some of those released were doing well and the money available on discharge had been of great advantage. They may also use a portion of the money in procuring extras for themselves and sending remittances to relatives. Originally no remission was allowed to habitual criminals during the definite stage of their sentence, but this gave rise to so much resentment that remission was allowed later under modified conditions.

Small number of cases dealt with in New South Wales.

38. It was hoped that this law would have an important deterrent effect but the number of cases dealt with under the Act has been so small that no great results could be expected. This will be evident from the following table which shows the operation of the Act up to the end of 1917 :—

	Definite stage.		Indeterminate stage.	
	Males.	Females.	Males.	Females.
Died (including in Indeterminate stage one suicide).	2	..	3	..
Declaration as habitual criminal remitted . .	6	..	1	..
Released on ground of ill-health	3	..	..	..
In hospital for the criminal insane . .	1	..	1	..
Under detention (including three who had previously been released).	13	..	..	..
Under detention (including three who had previously been released).	13	..	..	..
Released under provisions of section 7 of Habitual Criminals Act.	..	..	36	1

The changes during 1917 were as follows :

	Males.
Persons declared habitual criminals	3
Persons recommitted in terms of section 8 of the Habitual Criminals Act .	1
Promotions from Definite stage to Indeterminate stage	5
Promotions from Indeterminate to higher grade	2
Released in terms of section 7 of Habitual Criminals Act . . .	2

Of the 36 persons released since the commencement of the Act, five had been re-committed in terms of section 8.

Differences between New South Wales system and English system.

39. The principal differences between this system and that known as preventive detention in England seem to be as follows. In the first place the law of New South Wales provides in actual fact an indeterminate sentence, whereas in England the maximum period of detention is fixed by the judge and may not exceed ten years. This distinction is, however, only material in respect of recommitted prisoners, for if they be excluded none had been in the indeterminate stage more than two years, and clearly the practice is to release men as soon as possible after they reach the special grade. In the second place, the New South Wales rules require released habituals to make periodical

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reports to the police for two years, whereas in England not only have the police nothing to do with them but the greatest possible pains are taken to find them lodgings and employment and to help them and guide them through the agency of the Central Association. It seems probable that if arrangements of a similar character were adopted in New South Wales there would be even fewer failures than at present. It may also be that owing to a number of these prisoners leaving the colony after release, the number of failures is greater than appears on the surface.

Preventive detention in England.

40. The system of preventive detention in England referred to in the last paragraph was brought into existence by the Prevention of Crime Act, 1908. The original intention of the framers of this Act was to provide for the indefinite detention of recidivists whose conduct had proved that the ordinary punishments of imprisonment and penal servitude had failed to produce the desired effect. Parliament was, however, unwilling to accept a proposal which would render a man liable to be detained for life and the Bill was accordingly amended during its passage through the House of Commons so as to impose a definite limit to the maximum period of detention. In the shape in which it was passed, the Act empowers a court when inflicting a sentence of penal servitude to impose a further period of not less than five nor more than ten years to be undergone on completion of the term of penal servitude. This further period of preventive detention can be imposed only if the following conditions are fulfilled, namely,

(*ii*) He is found by the jury to have been convicted of a crime at least three times previously being an habitual criminal

(*ii*) He is found by the jury to have been convicted of a crime at least three times previously since attaining the age of sixteen; for the purposes of this section the expression 'crime' means, in England and Ireland, any felony or the offence of uttering false or counterfeit gold or silver coin, or of possessing counterfeit gold or silver coin, or the offence of obtaining goods or money by false pretences, or the offence of conspiracy to defraud, or any misdemeanour under the fifty-eighth section of the Larceny Act, 1861;

(*iii*) He is found by the jury to be leading persistently a dishonest or criminal life;

(*iv*) The court is of opinion that by reason of his criminal habits and mode of life it is expedient for the protection of the public that he should be kept in detention for a lengthened period of years.

Details of the system at Camp Hill.

41. The treatment accorded to prisoners in preventive detention is set forth in the following clauses:—

(*i*) The prisoners are divided into three grades, Ordinary, Special and Disciplinary.

(*a*) *Ordinary grade.* On the day of reception a prisoner is placed in the ordinary grade, to which are attached the following privileges: After every six months of exemplary behaviour, he is entitled to a certificate of industry and conduct, each certificate up to four carrying with it a sum of five shillings; after four and up to eight, certificates carry no monetary value. He has two outer suits, the one for Sunday wear being of brown cloth, and the working clothes of blue dungaree cap and blouse, blue cloth jacket and drab cord trousers, each with a distinguishing stripe, also working boots and shoes for Sunday wear. He is allowed to write and receive one letter every month, or to have an extra letter in lieu of a visit. A visit is allowed once a month, the duration being thirty minutes which may be extended by ten minutes, and the number of visitors allowed is three. The prisoner is allowed three novels and two educational books or one magazine and one novel, the novels and magazine being changeable weekly and the educational books once in four weeks. He may also purchase eight books out of his own gratuity. If more than this number is bought the balance must be handed over to the prison library to be put to his credit. Private books may be taken away on discharge. The prisoner is allowed to purchase out of his gratuity up to two ounces a week of tobacco and may also buy matches, pipes or cigarettes. A prisoner is able to earn three pence

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daily by good conduct, which he is allowed to spend at the canteen (where he can supplement his ordinary diet by biscuits, fruit, pickles, etc.) and can also purchase razor, strop, soap, tooth-powder, etc. The money credits not spent at the canteen may be used in various ways. They may be kept for use on release, or sent to relatives (in both cases through the Central Association) or may be spent on eye-glasses or dentistry (if the medical officer agrees) or on educational books, etc. On gaining his third certificate the man is entitled to the use of an allotment garden, may purchase seeds and manure and have a separate numbered set of garden tools and is allowed to work in the garden at specified hours. The produce of the allotment is purchased for prison use at contract rates and the value may be spent at the canteen, provided that the money from the sale of the produce and the money earned for good conduct (*i.e.*, 1*s.* 6*d.* a week) does not exceed 4*s.* a week. Any excess is carried forward to his credit. On gaining the first certificate the prisoner is allowed to have all meals in association, the second certificate entitles him to associate for recreation in the evenings when chess, draughts and dominoes can be played. Selected weekly papers and bound copies of recent periodicals are kept in the association room. During the war, owing to the great shortage of prison officers, many of whom joined up, association was discontinued and the prisoner in this grade was allowed to smoke and have a weekly paper in his cell.

(*b*) *Special Grade.*—The fourth certificate entitles the prisoner to promotion to the special grade when he is moved into another hall retained for men of this grade only. He is now given the following further privileges, namely, to write and receive a letter every fourteen days, to receive a visit every fourteen days, or to write a letter in lieu of a visit, to purchase weekly at the canteen three ounces of tobacco or cigarettes and matches which he retains in his cell. He may also purchase razor, strop, soap, comforts, etc., from the canteen out of his earnings as in the case of the ordinary grade. He is allowed to smoke in his cell as well as in association, to spend the whole of his weekly earnings at the canteen, to have daily papers, to organise discussions and music and to have his case brought specially to the notice of the advisory committee. On obtaining this grade prisoners wear red collars and cuffs in place of the good conduct stripes given with each of the first three certificates.

(*c*) *Disciplinary Grade.*—For misconduct, or because the prisoner is known to be exercising a bad influence on others, he may be placed by the governor, as an administrative act, in the disciplinary grade, until it is considered safe in the interests of himself and others for him to revert to normal conditions. Men who have been released on licence and are recalled for misconduct to serve the remainder of their sentence are always placed in the disciplinary grade until removed by the Board of Visitors when they think necessary (general period six months). In this grade, a prisoner wears an ordinary convict dress, is given convict diet and is located in the separate cells. He is allowed to write and receive a letter and a visit of thirty minutes' duration every three months, or a letter in lieu of a visit. He may receive the same books as the ordinary and special grades but is not allowed to retain private books. He receives no gratuity and is not allowed talking exercise. These men work by themselves apart from all other prisoners and are generally employed on wood-chopping, heavy digging and labouring. No association, papers or tobacco are allowed in this grade.

(*ii*) As soon as a sentence to preventive detention has been passed, the authorities at the local prison obtain, from references mentioned by the prisoner, and from other persons likely to give useful information (*e.g.*, police, reformatory and Discharged Prisoners' Aid Society officials, Army and Navy authorities, ministers of religion and former employers) any reports as to the man's antecedents, character and prospects, and these reports, together with periodical reports made by the governors, chaplains, medical officers and trade inspectors of the various prisons through which he passes and field in his record for reference at the Preventive Detention prison. Reports of recent date from the governor and chaplain at this prison are also available for reference by the advisory board when prisoners are interviewed. A member of the

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sub-committee of the advisory board sees each prisoner immediately after the commencement of preventive detention and at least once a year afterwards, and when the sub-committee are favourably inclined towards a case, the prisoner is placed under the special observation of all the members of the Committee for three months. If such a prisoner is in the special grade he is, on the recommendation of the committee, located in the parole lines.

(*iii*) Parole Lines.—The parole lines are situated outside the main prison enclosures and consist of 16 cabins and an association block for meals and recreation. These cabins are of one storey and are in two lines of eight with verandahs. Each has a bed-sitting room, a small kitchen with sink, and facilities for cooking, a storage cupboard and sanitary convenience, and they are all heated by hot water. In daylight hours the prisoners can spend their spare time in their cabins (each man has a latchkey), in the recreation room, their garden allotment or anywhere within the extensive enclosure. This is surrounded by low walls, and the only officer on duty neither can, nor is expected, to do more than see the men occassionally.

(*iv*) If fit for full labour the prisoners, on reception, are put to some useful work likely to benefit them on discharge such as building work, reclaiming land, general labouring, gardening, shoemaking, carpentry, cooking and baking, plumbing, painting, etc., or if unfit for hard labour at sewing, tailoring and knitting. Preventive detention prisoners unfit for the discipline of Camp Hill by reason of physical or mental infirmity are kept at Parkhurst.

(*v*) The diet of prisoners in the ordinary and special grades is varied in character and is laid down on a weekly basis, and there are several possible substitutes and additions. By freely transposing the dinners, much variety is introduced and the prisoners are unaware beforehand of the exact dinner to be served.

(*vi*) Services are held on Sunday in the Church of England and the Roman Catholic chapels and the behaviour of the prisoners is said to be all that could be desired. Concerts, lectures or an entertainment are held twice a year, arranged by the directors, and on other occasions concerts are given by the prisoners themselves. Sufficient exercise is given to all men fion week-days and Sundays, and talking is allowed in the ordinary and special grades.

(*vii*) For various offences prisoners can be punished by the governor by being placed on bread and water (not to exceed three days), by close confinement, by deprivation of certificates and forfeiture of privileges and by being placed in the disciplinary grade, and for more serious offences by the magistrates.

Its main features summarised.

42. The marked features of the system here described are the grant of privileges, such as smoking, games and the supply of newspapers, the absence of constant and irritating interference, and a general attempt to bring kindness and sympathy to bear on the prisoner. There is no searching at all. The men fall in from their rooms by themselves and are not marched about. Punishments are rare; we were told that there had been only one in the last six months. The men are allowed to have pens and pencils and to draw, paint or write in their rooms. No man in released on license until a job has been found for him. The form of license provides that a man may not leave his job or his town without permission of the agent under whose care he has been placed. The police are not notified of the residence of a licensee nor has he to report to the police.

Number of cases dealt with at Camp Hill.

43. The Prevention of Crime Act, 1908, came into operation on the 1st August 1909, and the special prison for the detention of persons dealt with under the Act was opened at Camp Hill, Isle of Wight, on 5th March 1912. The following table shows the number of persons brought under the operation of the Act from its first commencement to the 31st March 1917 :—

From 1st August 1909 to 31st March 1911	183	In the year 1914-15	46
In the year 1911-12	64	„ 1915-16	11
„ 1912-13	85	„ 1916-17	24
„ 1913-14	46	Total	459

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These figures appear to indicate a diminishing willingness on the part of the courts to make use of the provisions of the Act, a tendency which is ascribed to ignorance of the true principles and actual working of the institution. The great majority, over 80 per cent., of the prisoners admitted into Camp Hill are under the minimum sentence of five years' preventive detention, and they are usually licensed in the course of the third year of detention. Their average age is about forty.

Results of Camp Hill system.

44. On the occasion of our visit to Camp Hill the number of men in the institution was 79 and the total number discharged on license had been 310. During the period between March 1912 and the 30th September 1918, 10 prisoners died and 54 were discharged on completion of their term. A small number of men had also refused license and are excluded from these figures. The results, so far as then ascertainable, of the 310 men discharged on license are shown in the following table :—

Year of license.	Number licensed.	Results up to date.		
		Satisfactory.	Unsatisfactory.	Number of those in Column 4 who have been reconvicted.
1	2	3	4	5
1912-13	1	..	1	1
1913-14	8	2	6	2
1914-15	15	8	7	5
1915-16	77	52	25	8
1916-17	73	49	24	12
1917-18	70	49	21	11
1918-19	66	48	18	10
Total	310	208	102	49

These figures show that, excluding the men who were released in 1918-19 and 1919-20 and who had been on license a comparatively short time, 160 or 65 per cent. of the men who had been at large for a year and upwards had done well and that only 39 or 15 per cent. had been reconvicted. Reports regarding the man's conduct are received only during the term of his sentence so that on the expiry of five, six, seven or eight years, as the case may be, a man will pass out of sight. This cannot have affected these figures very much, for it is an interesting fact that of the men who proved unsatisfactory, over 80 per cent. failed during the first year and another 10 per cent. during the second year from date of license. Those who succeed in passing these periods generally continue to do well. How far these results have been affected by the war which greatly increased the demand for labour, we cannot say, but so far as the results go, they seem to us to be highly favourable and if they can be maintained in time of peace, they will amply justify the experiment which is being tried at Camp Hill.

Powers of the Secretary of State.

45. Before leaving this subject we wish to draw attention to certain powers which the English Act contains for dealing with persons sentenced to penal servitude and persons conditionally discharged on license. Under section 12 the Secretary of State may commute penal servitude to preventive detention in the case of convicts who appear to be habitual criminals within the meaning of the Act and who have served at least three years out of a total sentence of five or more years of penal servitude. He may, moreover, under section 16, at any time discharge absolutely any convict discharged conditionally on license, and he is bound so to discharge him at the expiration of five years from the time when he was first discharged on license, if satisfied that the convict has been observing the conditions of his license and abstaining from crime.

Comparison between the 'Ticket-of-leave' and 'Parole' systems.

46. In addition to the special system of preventive detention, which is above described, there also exists in England the so-called 'Ticket-of-leave' system. Under that system a convict who has served not less than three-quarters of his sentence can be conditionally released subject to periodical report

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to the police and to a liability to complete his original sentence if he is convicted of fresh crime. It will be useful here to notice a few of the main differences between the English ticket-of-leave system and the parole system as it obtains in the United States. The principal differences may be thus exhibited :—

Ticket-of-leave system.	Parole system.
The minimum period which the convict must serve in prison amounts to a large proportion of the total sentence.	The minimum period may bear a very small proportion to the total or maximum sentence.
It is not essential that the convict should be provided with employment before release.	No man can be released until employment has been secured for him.
He has to report periodically to the police and is under their surveillance.	The surveillance is exercised by special officers and the police are not required to take any part in the matter.
The conditions to be fulfilled are limited to report to the police, abstention from crime, from association with criminals and from leading an idle and dissolute life, and he is not subject to any control unless and until he again commits an offence or fails to report.	Any conditions as to conduct and industry which are thought suitable can be imposed.
An ex-convict can be remanded to prison either for breach of conditions of his agreement or on conviction of a fresh offence but the re-committal requires the order of a court.	A man who breaks his parole can be re-arrested and re-committed to prison by the prison authorities without the intervention of any court.
A convict who is re-convicted has to undergo not only his fresh sentence but the whole period of his original sentence less such time as he had previously served in prison; the period spent on ticket-of-leave is not taken into account.	A man who is remanded to prison has to complete his original sentence, but cannot be detained beyond the date on which the maximum period of that sentence would have expired.

Merits of the parole system.

47. Taking account of these differences we are inclined to think that there are some important advantages attaching to the system of release on parole. It appears to us to be a distinct advantage that the prisoner on parole goes out to an ascertained job and is entrusted to the supervision, not of the police but of a presumably sympathetic parole officer, whose duty it is to advise and assist him when he is in difficulties, and to keep a friendly eye on his proceedings. The ticket-of-leave man, on the other hand, too often has no one to help him, and being watched by the police may at times find it difficult to obtain and retain employment. Again, the agreement which the prisoner signs and which lays down clear instructions for his conduct gives a powerful means of control over him, and he can be recommitted to prison for the slightest violation of the conditions, whereas the ticket-of-leave man is theoretically under somewhat similar restrictions, but can, as a matter of fact, associate with bad characters with little danger, and knows that so long as he can evade conviction for an offence, no control will be exercised over him. *Per contra* it seems to us to be a sound feature of the English system that a substantial period of the original sentence must be served before release may be allowed, and that there is thus no chance of the punishment for crime being unduly whittled away. It does not seem to us to be impossible by judicious combination to secure the advantages of both systems.

APPENDIX XI.

MEMORANDUM ON THE ENGLISH PRISON SYSTEM.

(By Norman G. Mitchell-Innes, Esq.).

Section I.—Headquarters.

The Prison Commission.

The prison service in England is administered by the Prison Commission, which is responsible to the Secretary of State for the Home Department, and is housed in the Home Office. It consists of the Chairman (£1,800 a year), and four "Commissioners of Prisons," who are also "Directors of Convict Prisons" (£1,000 a year each), one of whom has, for some years past, been a medical man who has served in the prisons as a medical officer. They visit the "convict" prisons frequently and the "local" prisons occasionally. (*N.B.*—All salaries given are pre-war). Formerly, all the Commissioners had had prison experience, but, for some time now, it has been the practice to appoint First division clerks from the Home Office to two of these posts, leaving one to an Inspector of prisons. and one to the medical officer already referred to.

The Inspectors of Prisons.

2. There are three Inspectors of Prisons (£800 a year each), who spend part of each month at Headquarters, and the remainder in inspections, each prison being visited by an Inspector every other month. There are also a Chaplain-inspector (£700 a year), who interests himself in matters religious and educational, as well as in the working of the various discharged prisoners' aid societies, etc., and a Medical-inspector (£600 a year), who both travels, and works at Headquarters.

The Surveyor.

3. Prison construction and repairs are in the hands of the Surveyor (£900 a year)—at present a Colonel of the Royal Engineers—, who is assisted by another engineer (£400 a year), and by a staff of clerks-of-works who both work at Headquarters, and inspect the progress of works at the various prisons, draughtsmen, etc.

The control of accounts.

4. The Controller (£800 a year) is the head of the Accounts branch. To this branch all accounts from the prisons are submitted, and by it all the larger accounts are paid. Summaries of all the financial transactions of each prison are submitted by its steward monthly, and his work is examined at intervals during the year by members of the Controller's staff, as well as—at intervals of several years—by the staff of the Comptroller and Auditor-General. The Controller's staff also checks the prison output both as regards quantity and quality. All contracts are made in the Controller's office, after submission to the Chairman, who is responsible for the general finance of the Service. While there are undoubted advantages in concentrating much of the work referred to at Headquarters, it seems open to doubt whether the duplication of work which the system demands could not, so far as the accounts are concerned, be dispensed with, and Headquarter audits be relied on to test the accuracy of the prison transactions.

Section II.—Prisons.

The powers of prison governors.

5. The severe limitation of the governors' powers, and their strict subordination, even in matters of detail, to the Prison Commissioners, act as a safeguard against mistakes, but are not conducive to either enthusiasm or initiative. The adoption of the system is probably largely due to the

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fact that any member of the House of Commons is entitled to demand a full explanation of any action taken in any of the prisons of the country. The governor's actions are directed by (*i*) Acts of Parliament; (*ii*) Secretary of State's orders, which are laid on the table of the House, and, subsequently, have the force of Acts; (*iii*) "Standing orders," issued from time to time by the Commissioners for the carrying out of (*i*) and (*ii*); and (*iv*) Circulars on matters of immediate moment, many of which are, later on, transformed into Standing Orders.

Classification of prisons.

6. Prisons are divided into (*a*) "convict"—for those sentenced to penal servitude, the minimum term of which must be three years, and (*b*) "local"—for all others, the maximum term being two years. It used to be supposed that a term of two years' "hard labour" was as much as a man could endure, and that, if a longer term was inflicted, it must be passed in what were known as "public works" prisons, where the prisoners worked more or less in the open air at quarrying, bog-reclamation, etc. Now, the labour in all the "local" prisons is not hard—purely penal forms of labour, such as shotdrill, treadmill, etc., having been abandoned in favour of work such as a man might do outside; while, in the "convict" prisons, a very large proportion of the men are employed, not in the open air, but in workshops.

Convict prisons: men confined in.

7. The "convict" prisons take men sentenced to penal servitude as follows:—(*a*) "Star" convicts, *i.e.*, those with a good, or very fair, previous history, go to Maidstone; (*b*) "Intermediate," *i.e.*, those with a doubtful history, go to Portland; and (*c*) "Recidivists," *i.e.*, those with a bad history, go to Dartmoor. Parkhurst takes the sickly—in mind or body—, as well as all Jewish convicts

The superior staff of prisons.

8. Prisons are divided into five classes according to population, the salaries of the governors varying from £300 to £700 a year. In the larger prisons, *i.e.*, those with a population of 1,000 and over, the superior staff consists of a governor (£700 a year), a deputy governor (£250 a year), a chaplain (£350 a year), an assistant chaplain, a whole-time fully-qualified medical officer (£450 a year), and a deputy of similar standing (£225 to £400 a year). In smaller prisons, there is no deputy-governor, or assistant chaplain, while, if the population amounts to under 400, the medical officer is a part-time officer only.

Deputy-governors.

9. Deputy-governors are selected by the Commissioners from ex-Army officers (preferably such as have been adjutants of their regiments, and who may, therefore, be expected to show tact in the handling of men), civil servants who have been in charge of departments in the Colonial service, etc. When the selection has received the approval of the Secretary of State, they go to a training prison for six months, and then, if favourably reported on, to one of the larger prisons to serve under an experienced governor. On the occurrence of vacancies in fourth class prisons, which may be in two, three, or more years, they become governors, if again favourably reported on. The reports referred to are excellent in theory, but in practice, when a candidate has been appointed a deputy-governor, his appointment is invariably confirmed, and he becomes a governor in due course.

The subordinate prison staff.

10. (*i*) *The Chief-warder.*—At the head of the subordinate discipline staff, which is, roughly, in the proportion of ten to every hundred prisoners, is the chief-warder, who is the governor's right-hand man in all matters relating to discipline, and who, in the absence of a deputy-governor, acts for the governor when the latter is on leave. He is in, or about, the prison all day, and possesses an intimate knowledge of the prisoners, the staff, and everything relating to the discipline side of the establishment. It is not too much to say that, unless the chief-warder is a first rate man, it is almost impossible for a governor to have a first class prison.

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(*ii*) *The Principal warders.*—Next to the chief-warder come the principal warders, who correspond to non-commissioned officers in the Army, and who are selected from the warders. The selection is, unfortunately, not absolutely free, considerable weight being attached to seniority, with the result that a senior warder, especially if importunate, frequently obtains promotion rather on the ground that he has incurred no serious reports, than that he is specially qualified for the higher post.

(*iii*) *The Warders.*—Are selected in about equal proprotions from ex-non-commissioned officers or privates, whose characters are either "excellent" or "very good," and from civilians possessing a knowledge of a useful trade. Very careful enquiry is made as to their antecedents, and they have to pass an examination in reading, writing and arithmetic.

(*iv*) *The "Civil guard,"* which does sentry duty at "convict" prisons, and also assists in the wards when the men march in, is similarly recruited from the Army. The examination is simpler, and promotion to the rank of warder is dependent on the passing of the warders' examination.

The governors of female prisons.

11. Besides the governors already referred to, there is at the head of the large female prison of London—Holloway—a governor who was formerly a medical officer. His work is, necessarily, mainly confined to matters connected with discipline, the health of the prisoners being attended to by two fully qualified full-time medical officers. It is possible that, on the retirement of the present governor, the experiment of placing a lady superintendent in charge may be tried. There is also, since the recent retirement of the lady superintendent of Aylesbury—the prison for female "juvenile-adults"—a medical officer in charge of that prison.

The steward and his duties.

12. The keeping of all cash, manufacturing, and record books is in the hands of the steward and his staff of clerks. The governor has, of course, to keep a vigilant watch on all entries relating to the admission, discharge, etc., of prisoners, as well as on the cash-book, and he has, also, to supervise generally all the other books, numbering about one hundred, he being regarded as responsible for the proper maintenance of all the prison records. In fifth class prisons, *i.e.*, those with a population of less than 100, the duties of governor and steward are combined. As this necessitates a knowledge of book-keeping, it prevents, in most cases, the promotion of deserving chief-warders to these posts, which, consequently, fall to such stewards as are considered capable of managing a small prison. These can, if they prove fit for advancement, be promoted to larger prisons. Two have reached the rank of first class governor.

Labour in prisons.

13. (*i*) *In the "convict" prisons,* besides the open air work, *i.e.*, quarrying, masonry, bog-reclamation, farming, building, etc., very varied industries are carried on in the workshops, where prison equipment of all sorts is turned out, in the shape of clothing, shoes, metal-work, furniture, etc. A large number of men are also employed in the domestic work of the prison, *e.g.*, cooking, washing, and cleaning. An effort is made to put prisoners to trades for which they have an aptitude, or a liking, but the interests of the prison have to be considered before the desires of the prisoners. The men are supposed to work for nine hours a day, but, in a "convict" prison, the constant parading, searching, marching to and from work, distribution and collection of tools, etc., take up an unfortunately large portion of the working day. Efforts are now being made to keep the men longer on actual work.

(*ii*) *In the "local" prisons,* most of the work is for government departments, an arrangement having been come to by which their requirements, if capable of being satisfied by the prisons, are entrusted to them. This, and all other work, is given, indiscriminately, to prisoners whether sentenced to "Imprisonment," or to "Imprisonment with hard labour"—the distinction between the two sentences being marked by prisoners sentenced to the latter being confined to cell during working hours for the first month, and having to sleep on a plank bed for the first fortnight. Chief among the work for Government is the making of mail-bags for Post Office. Without this, the Controller's Department would be much embarrassed in its efforts to find employment for the prisoners. Other

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government work consists in the manufacture of coal sacks, and ships' fenders for the Navy, rug and mat making, basket work, etc., etc. A considerable amount of prison equipment is also turned out in the "local" prisons.

Tasks and remission.

14. The prisoners' output is measured up daily by the instructors—who are selected, as having a knowledge of the various trades, from among the warders, and who receive a special allowance—and the amount is entered on a mark card suspended outside each prisoner's cell. At the end of the week, a principal warder allots weekly marks according as the daily output is, as compared with the allotted task, fair, very fair, or good, and these marks are checked by the deputy-governor. By consistent "good" work a prisoner sentenced to more than one month's imprisonment can earn a remission of one-sixth of his sentence, and can then go free. In "convict" prisons, one-fourth can be earned, and the "convict" be discharged on "ticket-of-leave."

Weaknesses in task system.

15. The system is good in theory, but has two weak spots—(*i*) Output in association is not measured up—the idea being that, as the time of the officers is very fully occupied, it may be taken for granted that the prisoners are working properly while under supervision in the shops; which is, I fear, in many cases merely a pious aspiration; and (*ii*) it is not regarded as the duty of the steward's staff, or of anyone else, to check the figures entered by the instructor for the cell work. The governor, or deputy-governor, could, of course, if he suspected an instructor, measure up the cell work of certain of his prisoners himself but this is not the rule. A rough check could, also, be made by the steward by comparing the instructor's delivery of articles for a given period with the number of prisoners shown in his "Conversion Book" as employed by him on the manufacture of those articles during that period, and by comparing this with the figures entered by him as indicative of the daily work performed, but this is complicated to some extent by the fact that a prisoner may only be doing part of an article, or may be on "repairs." In any case, the fact remains that it is possible for an instructor to avoid trouble by entering full marks daily in the mark card of each prisoner, and the very small proportion of prisoners punished for idleness—though the great majority of them are in prison precisely on account of that failing—seems to point either to inaccurate marking, or to the tasks being insufficient to keep the average prisoner fully employed, or to both. It seems not unreasonable to believe that the last is the real reason.

Difficulty of imposing task.

16. The imposition of a proper task is bound to be a matter of considerable difficulty, when a large body of men of varying aptitudes has to be considered, but the best method would seem to be to fix a fairly stiff medium task, and to allow a fairly long "learner" period during which full marks should be allotted if the man appears to require it, and to be really trying.

Disposal of prison-made articles.

17. With a view to avoid conflict with trades unions, etc., articles are not sold to the public, and power-machinery is confined to the printing press at Maidstone and the weaving machines at Wakefield.

Cells in local prison

18. In a local prison, work in association, chapel attendance, exercise, etc., occupy about 7 hours per diem. The remainder of the 24 hours is passed in the cell, the floor of which is either of cement, asphalt, wood, brick or tiles, which has a clear glass window with sliding panes, walls painted for 4 feet from the ground and whitewashed above, shelves to hold the prisoner's letters, his slate and pencil, as well as his religious, educational, and library books—*i.e.*, novels, etc.,—and which is furnished with a plank bed, with coir matters and pillow, blankets, sheets, pillow slip, and counterpane, a table, a chair, and the necessary utensils for eating, washing, etc. The cell is steam-heated in winter, and has a bell by which a warder can be summoned. It is lit in the evening by an incandescent gas burner. Prisoners are locked up about 4-30 P.M., and after supper—which, as are all other meals, is served in the cell—are supposed to work till 7 P.M., after which they can read till 8 P. M., when lights are put out. They wash their faces and hands in a tin basin in their cells, and have a warm bath weekly.

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Rations and meals.

19. Breakfast and supper consist of porridge, or cocoa, and bread. Dinner consists of potatoes and bread, *plus* meat twice, bacon and beans once, suet pudding twice, and soup twice a week. Formerly, it was the practice to keep men on low rations, but it has now been realised that, if a man is expected to go to work on discharge, he must be kept well nourished. Consequently, penal diet, except as a punishment, has gone the way of penal labour, and deprivation of liberty, submission to orders, and absence of luxuries and general conversion, constitute the man's punishment.

Talking: when allowed.

20. With regard to the last of these items, round which so much controversy has raged, it may be said that the point at which England at present stands in the ever-changing realm of penology is—the less talking the better. A man is not reported for a chance word, but is not allowed to hold a conversation—except in "convict" prisons, where it is allowed, for long-term prisoners, on Sundays, under supervision—the reason being that the unrestricted conversation of malefactors is regarded as more likely to be harmful than beneficial to them, and that it affords an excellent opportunity for getting up charges against officers, planning assaults, or escapes, blackmailing, etc. As regards the first of these points it may be argued that, if prisoners are classified according to their criminal history, the conversation of any one group will not be likely to do harm to any particular member of it, but this is to ignore the fact that classification, at its best, can only be a very rough attempt at separating the better from the worse, and that very varying degrees of vice are to be found in any group which may be formed. It is also urged that to attempt to suppress talking is to encourage subterfuge. Considerable weight attaches to this argument, but, in this, as in many other cases, where conditions are abnormal, it is necessary to make a choice of evils.

Arguments for cellular confinement.

21. The same arguments hold good as regards cellular confinement, and, in addition, there is the advantage of all opportunity for unnatural vice being withdrawn. It is regarded as inadvisable to keep a prisoner all day and all night in the company of other malefactors, *i.e.*, in a perpetual atmosphere of vice. A certain amount of privacy is probably preferred by most, certainly by the better class prisoners, and it has the advantage of enabling them, if they will, to ponder over the good advice given them by the chaplain, and to realise, when by themselves, that vice does not really 'pay'. The visits to the cell of tactful chaplains and school-masters are much appreciated by the better class prisoner, and to them he will unbosom himself to an extent which cannot, as a rule, be expected in his interviews with the governor.

Education, books and recreation.

22. The younger men attend school till they have passed out of standard III, and books of education—which include practically everything other than romance—are supplied to them from the moment of their admission, and are changed frequently. Novels are gained by good conduct, and increase in number as the prisoner passes up through the four progressive stages of one month each. His advance in these brings, also, more frequent letters and visits. Lantern and other lectures are given occasionally and there are weekly addresses on current topics. The above constitute the lighter side of the adult prisoner's life—the American privileges of unrestrained association and conversation, newspapers, tobacco, cards, baseball, etc., not having found favour in English eyes.

Classification of local prisoners.

23. Classification of local prisoners is carried out to a very considerable extent.

(*i*) *Prisoners under trial* are separated, not only from the main body of prisoners, but also from each other, by being kept in cells, except when at chapel, or at exercise. They may wear their own clothes, purchase their own food, books, and papers, and have daily letters and visits. They may work, if they elect to do so, and so earn money. A movement has been recently started for the housing of prisoners awaiting trial in some building other than the prison proper. This is desirable, but would be very expensive.

(*ii*) *Debtors,* in English prison parlance, are persons who, having been adjudged by the court capable of paying a certain sum, and having failed to do so, are sent to prison, for short terms, for

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what practically amounts to contempt of court. It is not the practice to imprison a debtor twice for the same offence. These may wear their own clothes. They must work (though tasks are not enforced), and can earn a few shillings a week. They are kept in cells separate from other prisoners, but may talk to each other when at exercise.

(*iii*) *Juveniles* aged 16 to 21, whose terms are too short for admission to a Borstal institution, receive the special care of the chaplain and the school-masters. They are educated up to standard V, and are kept entirely apart from adults. If sentenced to three months or over, they are sent to special prisons known as collecting depôts. There, after six weeks, they can earn privileges, such as conversational exercise on Sundays, meals in association, recreation on Saturdays, etc.

(*iv*) *Divisions I and II.*—In addition to the above, the court may direct that a prisoner sentenced to imprisonment without hard labour be placed in Divisions I or II. The former is used to an extremely limited extent—generally for contempt of court—and practically subjects a prisoner to the same treatment as is accorded to a prisoner under trial, *i.e.*, he is merely detained in a place of safe custody. The latter ensures that a prisoner shall be kept apart from other classes, relieves him of the first month's separate confinement, and the first fortnight's plank bed, and entitles him to an earlier reception of letters and visits. The courts are being urged to consider in all cases of imprisonment without hard labour the question of the Division in which the prisoner should be placed, and, in the event of their failing to give a definite ruling on the subject, the Visiting Committee is to decide whether or not he shall be placed in Division II, but no offender can be placed in this Division if of bad character or antecedents.

(*v*) *Division III.*—Other prisoners sentenced to imprisonment without 'hard labour' are placed in Division III. They are not necessarily separated from those sentenced to hard labour, but work in association, and have a mattress, from date of admission.

Further relaxations for Division I and III.

24. A provision is in existence for further relaxations of prison conditions, in the direction of clothing, work, etc., in the case of offenders of Divisions II and III "whose previous character is good, and who have been convicted of, or committed to prison for an offence not involving dishonesty, cruelty, indecency, or serious violence." This has practically been confined to "Suffragists" (who were also allowed to have their own food sent in), and "Passive Resisters." The above methods of classification apply to 'local' prisoners only.

Sub-classification of Division III.

25. For such as are in Division III, or who are sentenced to imprisonment with hard labour—*i.e.*, the large majority of the prisoners—a further, and very useful, method of separation exists, known as the "Star class" classification. In this are placed "prisoners who have not been previously convicted of serious crime, or who are not habitually criminal or of corrupt habits." The classification, it may be noted, does not connote any differential treatment, it being made solely in the moral interest of the prisoner affected by it. The initial information as regards the prisoner's antecedents is furnished by the police at the time of his reception, but the Governor is directed to supplement this, when necessary, by inquiry from respectable friends, etc. The final decision rests with the Visiting Committee.

Classification of penal servitude prisoners.

26. In the case of prisoners sentenced to penal servitude, the governor of the 'local' prison in which he is lodged on reception sends out printed forms of inquiry to the police, and to any respectable friends. These, when completed, are forwarded to Headquarters, with the convict's "dossier", which contains a record of his age, a newspaper cutting of his trial, and a statement of any previous conviction incurred by him, etc., etc. From a study of these, a decision is come to as to whether the convict shall be placed in the "Star," the "Intermediate," or the "Recidivist" class, the second being, as the name implies, for those whose history is not sufficiently favourable for inclusion in the first, but not so unfavourable as to class them with the habituals. It is thus perfectly possible for a man with a previous conviction of no great importance, or of long anterior date, to be classified "Star," while a man, who has never been convicted, but regarding whom the judge has expressed an opinion that he has been living a life of persistent crime—*e.g.*, a coiner, or a receiver—may be classified "Recidivist." The first two classes are kept for one, the last for three, months in a 'local,' before being transferred to a 'convict' prison. Mention may, perhaps, be made here of the "aged convict"

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class at Parkhurst, the members of which, being past work, associate in a room, and are allowed newspapers, etc.'

27. (*i*) *Local prisons.*—The ordinary life of a prisoner in a 'local' prison is as follows. He rises at 5-30 A.M., washes his face and hands, dresses and does an hour's cell work. Breakfast is then brought to his cell—after which, if it is a chapel day, he goes to prayers. At 8-30, he goes out to the yards, and has an hour's exercise round a ring, after which he returns to his cell, if in I Stage, or goes to the shops, if he has passed out of it. At noon, dinner is served in cells. At 12-40 P.M. work recommences for I Stage, and at 1-30 P.M. for other prisoners. Supper is served at 4-30 P.M., and cellular labour goes on from 5 to 7 P.M.—lights being put out at 8 P.M.

Prison routine.

(*ii*) *Convict prisons.*—The arrangements at 'convict' prisons vary with the seasons—outdoor labour being longer in summer, and cell labour (a very recent introduction in 'convict' prisons) being longer in winter.

28. The relations of the average prisoner with the average warder are good. It may indeed be safely said that, to no inconsiderable portion of the prisoners, the warder is much less objectionable than are their fellow inmates. A prisoner who seeks trouble probably finds it, and, no doubt, cases exist in which the treatment of prisoners by tactless or irritable warders is unduly harsh, but the latter are so closely watched, and the penalty for anything approaching brutality is so heavy, that the possibility of unnecessary suffering by a prisoner is reduced to a minimum. It is a matter of common knowledge that most officers look to their charges to defend them if attack by any violent prisoner. As a matter of fact, assaults on officers are exceedingly rare.

Relations between warders and prisoners.

29. The ordinary prisoner suffers practically no physical discomfort from the fact of his being in prison. As to the amount of mental suffering which may be undergone, it is difficult to speak with any certainty. The agony which a man with a respectable past may experience is due rather to the disgrace incurred, than to any special feature of his incarceration. Prisoners of good social position have been known to express surprise at the conditions being as good as they are. When a man is attached to his wife and home, he naturally suffers from the enforced separation from them, more especially if he is apprehensive as to their welfare. This is inevitable, and is one of the penalties entailed by wrong doing.

Effects of imprisonment on the prisoner.

30. Equally difficult is it to dogmatise as to the amount of good or evil which results from incarceration. If it be urged that the large number of men who never return to prison after undergoing a sentence points to their having been influenced for good while there, it may, on the other hand, be argued that many of these have no real criminal instincts, that the shock of a conviction has brought them to their senses, and that, especially if shepherded by their friends and relations on release, they take the first chance which offers of endeavouring to rehabilitate themselves. These, it may be urged, become good citizens not on account of, but in spite of, their imprisonment. It would, however, be going too far to say that all the efforts for the reclamation of the prisoner which are brought to bear in prison are fruitless. Doubtless, many a man can trace his reformation to the interest which has been taken in him while a prisoner. It is, however, hardly possible to argue that condemning a man to live in the company of other law-breakers for a term of months or years is, in itself, likely to lead to improvement. All that can be done in the prison is to create an atmosphere of firm, but sympathetic, discipline, steady work, and cleanliness. The mere observation of a respectable body of warders going about their daily work in a quiet and orderly manner probably acts as a valuable object lesson. When to this are added the efforts of the chaplain and his staff to instil into the "corpus sanum," which the medical officer endeavours to create, the "mens sana" which it is their object to inspire, as well as to educate the younger prisoner, much has been done for the recipient. It must, however, finally rest with him as to whether he will, or will not, utilise the opportunities afforded him. "One man can take a horse to the water, but ten cannot make him drink," and no regulations, nor personal efforts, will avail, unless the prisoner has at least some desire to turn over a new leaf. The reduction in the number of receptions from 153,000 in 1899, when the population was 32 millions, to 136,000 in 1913, when the population was 37 millions, though due to a number of

Results of imprisonment.

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causes, reflects, at any rate, some credit on the prison system. The present figures—26,000 "local," and 340 "convicts"—are abnormal, and represent one of the few happy results of the War. It may be noted that the percentage of sentences of one month and under is, as a rule, 75, that of those over two years, 5 of the total.

Inducements to work.

31. The inducements held out to a prisoner to work and behave well have been referred to in paragraph 14. In addition to the above, a trustworthy prisoner may be selected for a job which will not entail his being under constant supervision—but anything in the shape of subordinating one prisoner to another is absolutely prohibited. The giving of directions to a prisoner, and the reporting him for disobedience, is regarded as in the sole province of respectable officers carefully selected for the purpose, and it is improbable that any proposal to inculcate into one law-breaker a sense of self-reliance and responsibility by placing him in a position of authority over another, would find, in England, any favour, either with the prisoners, or with the general public.

Prison punishments.

32. Punishments consist of loss of marks, close confinement, penal diet, and corporal punishment. The powers of the governor are limited to—(*a*) 3 days bread and water, (*b*) 3 days close confinement, (*c*) 14 days loss of marks. For the graver offences, the prisoner is reported to the Visiting Committee, or one of its members. Evidence is taken on oath, and the maximum punishments are—(*a*) 9 days bread and water—spread over 15 days, (*b*)14 days close confinement, (*c*) 28 days loss of marks. If this latter is regarded as insufficient, a recommendation for a longer period of forfeiture is made to the Prison Commissioners. In "convict" prisons, the governor may order that 3 months marks be forfeited, and the Board of Visitors—to whom reports against convicts are referred by the Directors—have unlimited power in this respect. Corporal punishment can only be awarded by the Visiting Committee (or Board of Visitors) for—(*a*) mutiny, or incitement to mutiny, and (*b*) gross personal violence to an officer. The evidence is taken on oath, and the award submitted to the Secretary of State for approval or otherwise. It is hardly necessary to say that, whenever a report is made against a prisoner, he is allowed every opportunity of defending himself—though, for obvious reasons, it is not the general rule to allow him to call other prisoners as witnesses on his behalf.

Methods of restraint.

33. No prisoner may be put in irons, or under mechanical restraint, as a punishment. Canvas restraint-jackets, body belts, and, if necessary, handcuffs, may be applied for 24 hours, to prevent acts of violence. A written order from a member of the Visiting Committee is required for any longer period of continuous restraint. In addition to the above, "convicts" may be ordered to wear leg irons for any period up to six months for (*a*) assaults, and (*b*) escape.

The Visiting Committee.

34. The Visiting Committee, to which reference has been made, is appointed at the first Quarter Sessions of the year, the names of those appointed being reported by their Chairman to the Secretary of State. They meet as a Committee at the prison once a month, and one or more members visit weekly. They hear and investigate any complaint made to them by a prisoner, inspect diets, report any abuses, and generally keep an eye on the condition of the prison. An annual report is furnished to the Secretary of State. They or some of them, with the governor, the chaplain, and, if desired, other coadjutors, also form the discharged prisoners aid society of the prison, which deals with the question of helping individual prisoners on release. The Board of Visitors (for "convict" prisons) is appointed by the Secretary of State. The members hold office for three years.

Limitations on imprisonment.

35. No person may now be sent to prison for a term of less than 5 days. No person under 14 may be sent to prison, nor is any person under 16 kept there, unless he is so unruly or depraved as to render it impossible to arrange for his detention elsewhere. When a person between the ages of 16 and 21 is brought before the magistrates, they may, if they so desire, remand the case to Quarter Sessions, with a view to his being committed to a "Borstal institution." When such person is committed for trial, it is the duty of the governor of the prison in which he is detained to furnish the Judge, or chairman of Quarter Sessions, with a report on his suitability, or otherwise, for Borstal treatment.

Appendix XI.—Memorandum on the English Prison System.

Section III.—Borstal institutions.

Persons admitted.

36. As, by the Act, Borstal inmates are to be persons of "criminal habits or tendencies" or "associates of bad characters who require to be detained for their own reformation and the repression of crime"—those whose previous character has been good would not be regarded as suitable. On the other hand, where the prisoner has already served a term in a Borstal institution, or where the history and demeanour of an ex-reformatory boy are such as to make it improbable that further training will have any good effect on the prisoner, the case would be regarded as equally unsuitable for Borstal treatment. Bad health and poor physique rendering the prisoner unfit for drill and hard work are also regarded as a bar to commitment to a Borstal institution. The minimum term of commitment is now two years, the maximum being five. A "Borstal institution" may be regarded as a prison for youths who have made considerable acquaintance with crime, into which such features of reformatory schools as can be suitably utilised are introduced.

The staff.

37. The staff are carefully selected from the general body of prison warders, and are taught to regard themselves as the boys' friends, as well as their custodians. It takes some time for the budding criminal to realise this, but when he does so, he, in many cases, responds very fully.

Training and recreation.

38. Special attention is paid to education, both mental and physical, and every endeavour is made to send the lad out, if not a trained artisan, with, at any rate, a good working knowledge of one or more useful trades. Recreation, in the shape of football and cricket, is provided for the upper class, the members of which are dressed in blue, and are trusted to go about, outside the wall, to the Farm, etc., by themselves.

Dormitories in Borstal institutions.

39. The lads in this class sleep, at present, in dormitories, observed by a patrol from an outside gallery, but the late governor was not in favour of a system which provided no check on undesirable conversation, etc. He not infrequently received applications for permission to remain in the cells provided for the lower class, owing to the desire which existed to possess a private room. The dormitory system has, after a trial, been abandoned at the Borstal institution in Scotland.

Discharge from Borstal institutions.

40. The lads can be discharged on license at any time, but, in the opinion of the late Governor, should stay for at least two years. For a year after the expiration of their sentences, they are under supervision, and can be brought back if their conduct is unsatisfactory. On discharge, a lad is taken in hand by the "Borstal Association," which finds employment for him, looks after him, through the agency of its helpers, and does its best to emphasise the lessons in self-control and self-respect which have been inculcated in the institution.

Success of Borstal system.

41. The scheme has proved an undoubted success. The lads, being still malleable, respond in great degree to the efforts made on their behalf, and, instead of swelling the ranks of "jail-birds," become, in most cases, respectable citizens. During the War, numbers of them enlisted direct from Borstal, and, having acquired a knowledge of drill there, rapidly rose to be non-commissioned officers.

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Section IV.—Camp Hill.

The system of preventive detention at Camp Hill.

42. At the other end of the scale comes the experiment which is being tried at Camp Hill of trying out convicts of the "recidivist" type. This scheme, in its inception, proposed to remove, indefinitely, from society men who had proved their determination to offend against it. It was thought that the thoroughly unsatisfactory condition of affairs under which men who made their living by crime were perpetually being discharged from, and returned to, prison would be improved if these were incarcerated in some establishment where their treatment would be less severe than in a prison, but front which they would not emerge unless and until they satisfied the authorities that the public would not suffer by their liberation. This proposal did not find favour with the House of Commons, which viewed with disfavour a project by which the larceny of a bootlace might mean incarceration for life. The fact that the "animus furandi" was equally present whatever the value of the article stolen, and that the thief would have much preferred to steal a 'rope of pearls,' was ignored, and the maximum term was fixed at 10 years.

Procedure on committal to Camp Hill.

43. The procedure is as follows. The accused is first charged with a specific offence—*e.g.*, burglary. If convicted of this, and if the approval of the Director of Public Prosecutions has been obtained to further proceedings being taken, he is, next, formally charged with being a "habitual criminal"—*i.e.*, with having been convicted several times of felony, and having failed to make any recent effort to earn an honest livelihood. He is entitled to defend himself, and the case is heard by a judge and jury. If convicted on this charge also, the judge adds to any sentence of penal servitude which he may have passed on the first charge, such number of years, not less than five nor more ten, to be passed in "preventive detention" as he may deem fit. The man then serves the first sentence—less the quarter which can be remitted if his behaviour is good—at one of the "convict" prisons as an ordinary "convict." At the end of that period, he is sent to Camp Hill. He is interviewed on arrival at the latter by the "Advisory Committee," which is appointed by the Secretary of State, and is not seen again by them for twelve months. The question of release on license in taken into consideration as soon as the chance of reformation appears hopeful. It is not dependent on the length of the sentence.

Routine at Camp Hill.

44. The establishment was opened in 1912, since which date 300 have been licensed, of whom 204 have been satisfactorily reported on. The population last year was 75. It is stated that the men appreciate the fact that they are not always having it brought home to them that they are "convicts," and that they acquire self-respect. They are subject to fewer restrictions than at a "convict" prison, and, if thought trustworthy, can have a hut of their own in the "parole lines," where, though locked up at night, they are free from constant supervision by day. Privileges increase as "certificates" are gained by the convict, and include permission to purchase tobacco, newspapers, etc., at the canteen, conversation, etc. An important point is that the license on discharge differs from that on which the ordinary convict is liberated in insisting on his keeping at work, instead of on mere abstention from misconduct.

Result of experiment.

45. The experiment is an interesting one, but the period of existence has been too short, the numbers too few, and the conditions during the past years too abnormal, to enable any definite conclusion as to its success to be arrived at. The satisfactory reports which have so far been received of 200 out of the 300 already discharged argue well for the future of the experiment. It is questionable, also, whether English judges will be generally willing to frame their sentences in such a way that the

Appendix XI.—Memorandum on the English Prison System.

latter portion will come under the revision of the "Advisory Committee." Much will probably depend upon the results of the releases made at the instance of the Committee when normal times return.

Section V.—After-care.

Convicts.

46. On release from Camp Hill the convict is placed in charge of some person deputed by the "Central Association" to look after him. Work is found for him, and he is not allowed to leave it, nor his lodgings, without permission. No notification is made to the police, nor does the "convict" report to them, as in the case of the ordinary "convict" discharged on "ticket-of-leave." On expiry of the term of license, no further reports are required. The after-care of the ordinary "convict" is the work of the agents of the "Central Association." The Government gives a grant of £2,000 per annum on their behalf.

Local prisoners.

47. As regards 'local' prisoners, the amounts they were able to earn as 'gratuities'—most of which were almost negligible—the sentences as a rule being very short—were, in 1912, replaced by a grant of one shilling a head, contingent on a similar amount being subscribed by the Discharged Prisoners Aid Societies. Gratuities were abolished in the "convict" prisons at the same time. Under the present system, the amount of the government grant is added to the private subscriptions, and the total is used for the purpose of making substantial grants to those needing and likely to make good use of them, the amounts which the others would have received being saved.

Government grant.

48. In pre-war days, the total government grant for 'convicts,' 'local' prisoners, and Borstal inmates, ran up to £20,000. Help is now, also, given to the wives and children of 'local' prisoners, and "convicts," by Discharged Prisoners Aid Societies, or, failing them, by the Society for the Prevention of Cruelty to Children.

N. G. MITCHELL-INNES.

APPENDIX XII.

NOTE ON THE EGYPTIAN SYSTEM OF LABOUR IN LIEU OF IMPRISONMENT FOR NON-PAYMENT OF FINES.

(By the Inspector-general of the Prisons Department in Egypt).

(Referred to in paragraph 444A. of the Report).

(*i*) The first law dealing with the question of labour in lieu was promulgated in 1901 giving persons the option of labouring in lieu of imprisonment for non-payment of fines. At the period this law was brought out, 50 per cent, of the total number of persons committed to prison went there in default of payment of fines, the total number of such prisoners in 1901 being 52,006. It was to provide for this mass of humanity, who found it more advantageous to pass a few days or weeks in prison than pay their fines, that the law of 1901 was promulgated. As an immediate result 60,723 persons elected to labour in lieu of imprisonment for non-payment of fines. The State prisons were consequently less overcrowded and the expense of feeding and clothing these persons was saved ; added to which the State benefited by the labour thus produced.

(*ii*) In 1911 the Inspector-general of Prisons proposed that some law should be produced extending the option of labour in lieu to persons sentenced to short terms of imprisonment, on the ground that the prisons were overcrowded with prisoners undergoing short terms of imprisonment of three months and less. The absurdity of sending persons to prison for short terms of imprisonment is well illustrated by the following figures for the year 1911 :—9,359 persons were committed to prison for terms of simple imprisonment varying from one week to one month. 8,750 persons were committed to prison for terms of simple imprisonment for less than one week. In 1911 a total of 18,790 persons were committed to prison for terms of simple imprisonment not exceeding three months. This continual flow of short-term prisoners, whom the State was obliged to feed and clothe, without any due return in the form of labour, also caused a considerable amount of unnecessary work to the staffs of the various prisons.

(*iii*) This suggestion of the Inspector-general of Prisons was adopted and a new Law No. 12 of 8th June 1912 was promulgated, which added a new paragraph to Article 18 of the Penal Code. Law No. 12 provided that all persons condemned to simple imprisonment, not exceeding three months, might opt for labour in lieu of imprisonment under the conditions laid down in Articles 271-273 of the Code of Criminal Instructions, provided that it was not expressly stated in the sentence that the individual was not allowed the privilege. Law No. 15 of 28th November 1904 provides that persons convicted by Administrative Commissions, with the exception of those convicted by Customs Commissions, might also be given the option of labour in lieu ; and Law No. 12 was made applicable to all such persons.

(iv) By the introduction of Law No. 12 a large number of persons convicted for minor offences was able to do useful work instead of being confined in prison, where they might be subject to contamination owing to their possibly being brought into association with old offenders,

Appendix XII.—Note on the Egyptian System of Labour in lieu of imprisonment for non-payment of fines.

The operation of the Law depended very largely on the co-operation of the judges and the object of the law was apt to be entirely defeated by the award of short terms of imprisonment with labour, where similar or longer terms of simple imprisonment might have equally met the case and enabled the persons so convicted to opt for labour in lieu of imprisonment. The police in the larger towns very properly reserved to themselves the right to refuse the opinion of labour in lieu in certain cases such as drunkenness, smoking hashish, assaults on police, etc. The hours for labour laid down for labour in lieu were fixed at six hours and these were usually performed between the hours of 6 A.M to noon in summer and 7 A.M. to 1 P.M. in winter. The larger towns provided by far the majority of prisoners opting for labour in lieu owing probably to the fact that the greater number of offences committed in the country districts could not adequately be dealt with by sentences of simple imprisonment, and also to the fact that owing to the distances of the labour centres from the villages, people were unable to return to their villages on completion of their hours of labour in lieu and consequently one of the great incentives for opting was lost. The different categories of labour on which such persons should be employed were fixed by the Minister of the Interior in agreement with the Minister of Justice. As a general principle, persons opting for labour in lieu were only employed for government, municipal, and provincial authorities, except in the case of picking and collecting cotton worm egg, where they might be employed for private individuals on payment.

(*v*) *Procedure in the large towns.*—Various labour centres, comprising a certain number of Police Districts, were designated in order to obviate the necessity of persons opting for labour in lieu having to go long distances to report for work. A person opting for labour in lieu was sent direct with his warrant to the police headquarters of the district to which he belonged and his name was entered in a special register containing the necessary particulars as to the number of days of labour to be performed, the date of commencing, *etc.* The individual was then warned as to the date and hour on which he had to report at the labour centre (to which his police district was attached) and also the number of days' labour he would have to perform. A copy of his warrant, showing the date on which he had been warned to report, was then sent to the labour centre. The labour centre then prepared daily lists of all persons due to report on each day. Such lists were checked the following morning by the orderly officer with the individuals reporting, and a note made of any absentees, who were then reported to their various police districts and the copies of their warrants were returned. Failing the production of a valid excuse, such as illness or having to attend a court of law, *etc.*, such absentees were then arrested and sent to prison to complete the period of imprisonment. The hours of reporting at labour centres were 6 A.M. in summer, 7 A.M. in winter. A few minutes' grace was invariably allowed. In case of sickness it was usual to accept only the certificate of the district police doctor, government hospital doctor, or prison doctor. All individuals reporting at a labour centre were divided into different labour parties, each under a warder sergeant or warder, whose duty it was to see that such individual performed their allotted 6 hours of labour in lieu. Each warder sergeant or warder was given a list which he signed with his remarks at the conclusion of the day's work. The different categories of labour usually selected were :—

(*a*) General cleaning fatigues at police district quarters and stables,

(*b*) Road mending and sweeping,

(*c*) Stone breaking,

(*d*) Extracting stone or sand from quarries.

Having due regard to the physique of the majority of the persons available, from those who opted, (*b*) and (*c*) were found to be the most suitable forms of labour. Most municipalities can generally provide this form of labour and as the only charge was the cost of the pay of the warder staff, which was small compared with the number of persons employed, and the provision of the baskets and tools, *etc.*, necessary for the work, it can readily be understood that such labour was cheap compared with ordinary daily paid labour. A great deal necessarily depended on the common sense employed in allotting the various tasks to be performed, taking into consideration the physique of the various individuals, and also on the proper supervision of such tasks. Another point to be considered was the distance of the selected places of labour from the labour

Appendix XII.—Note on the Egyptian System of Labour in lieu of imprisonment for non-payment of fines.

centre and the provision of the necesary transport to prevent undue waste of time in reaching the destination. Much useful work was in this manner performed in the large towns. An examination of column No. 2 of Table No. I, the statistics given for Alexandria City, will give some idea of the number of persons employed by the municipality and police who actually completed their periods of labour in lieu and the high percentage of those completing. Table No. 2 is a proof of the success of the law as showing the large number of persons who avail themselves of the privilege of opting for labour in lieu of imprisonment. Column No. 4 gives the total number of persons who failed to complete their periods of labour in lieu and were not subsequently arrested. With the exception of the years 1917 and 1918 these figures must be considered satisfactory on the whole, as proving that only a very small percentage of persons escaped the provisions of the law, by which they could be arrested for not completing their periods of labour in lieu or for failing to report at labour centres. In these statistics, to arrive at really true figures the years 1914, 1915 and 1916 only should be taken. 1913 should be omitted as this was the first year, when the scheme was only in its infancy and the operation of the law was but indifferently understood. The years subsequent to 1916 should also be omitted as there has been a steady decrease in the total number of persons opting owing to :—

(*a*) a large number of persons being in the employment of the military authorities,

(*b*) general conditions as a result of the War,

(*c*) the existence of the military courts dealing with a large number of offences, for which terms of simple imprisonment might possibly have been awarded by the ordinary courts,

(*d*) a tendency to award a larger number of sentences of short terms of imprisonment with labour which is against the spirit of the law.

Column No. 5, Table No. I, includes the number of persons who were sentenced to simple imprisonment with the option of a fine and who paid such fines. Of 130 warrants recently examined 88 were sentences of simple imprisonment with the option of a fine and the fines were paid in 59 of such cases.

(*vi*) *Country districts.*—In the country districts, with very few exceptions, the number of persons opting for labour in lieu was very small for the reasons given above. The selection of labour centres conveniently situated and adjacent to one or more police districts is a question of the utmost importance, as the success of the operation of the law very largely depends on this point. For the sake of convenience police district headquarters were usually selected as the labour centres, but as these were often at a considerable distance from some of the villages, this system was not one to be recommended. The finding of suitable labour in a country district is an easy task as, owing to there being no municipalities in some of the larger villages of a police district, scavenging is always available as a suitable and useful form of labour. In addition (*a*) the upkeep of existing agricultural roads, and (*b*) the improvement and maintenance of ordinary roads and canal banks, subject to the approval of the Irrigation Department, also provide suitable labour. The cost of the baskets and tools and pay of the supervising warder staff is in such cases usually debited to the Prisons Department, who would otherwise have to feed and clothe these men. On the whole it cannot be said that much useful work was performed by this form of labour in the country districts, though a great deal more could have been done by (*i*) the selection of suitable labour centres, (*ii*) the organisation and proper supervision of the available labour, and (*iii*) general interest and initiative on the part of the responsible officials.

Appendix XII.—Note on the Egyptian System of Labour in lieu of imprisonment for non-payment of fines.

ALEXANDRIA CITY.

TABLE I.

Year.	1 Total number of persons who opted for labour in lieu of simple imprisonment, fines and judicial costs.	2 Total number of persons who completed their period of labour in lieu.	3 Total number of persons who opted for labour in lieu and were arrested for not completing their period of labour.	4 Total number of persons who opted for labour in lieu and did not complete their period of labour in lieu and were not arrested.	Total number of persons who paid the fines and judicial costs.
1913	1,030	305	701	24	0
1914	2,586	1,259	631	19	677
1915	2,680	1,255	577	35	813
1916	2,659	1,040	529	60	1,030
1917	2,115	907	382	95	731
1918	1,168	483	159	123	403
1919	800	453	26	9	312

TABLES II AND III.

Particulars of Tables.	1914	1915	1916	1917	1918	1919
Table II.—Percentages of persons who opted for labour in lieu and completed the full period of labour ..	65	67	63	65	63	93
Table III.—Percentages of persons who paid fines instead of opting for labour in lieu	26	33	38	34	34	39

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